



LAWS OF MALAYSIA

Act A1443

MEDICAL (AMENDMENT) ACT 2012

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LAWS OF MALAYSIA

Act A1443

MEDICAL (AMENDMENT) ACT 2012

An Act to amend the Medical Act 1971.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Medical (Amendment) Act 2012.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of long title

2. The Medical Act 1971 [*Act 50*], which is referred to as the “principal Act” in this Act, is amended by substituting for the long title the following long title:

“An Act to consolidate and amend the law relating to the registration of medical practitioners, the control and regulation of the practice of medicine, to provide for certain provisions with regard to a period of service in the public services after full registration as a medical practitioner; and to make provisions for matters connected thereto.”.

Amendment of section 2**3. Section 2 of the principal Act is amended—**

- (a) in the definition of “Register”, by deleting the words “required to be maintained”;
- (b) by inserting after the definition of “recognised specialist qualification” the following definition:
 - ‘ “recognised training institution” means a higher education provider as defined under section 2 of the Malaysian Qualification Agency Act 2007 [Act 679] for the purpose of registration under section 4 of this Act;’;
- (c) by inserting after the definition of “qualification” the following definition:
 - ‘ “recognised specialist qualification” means a qualification conferred by any recognised training institution;’;
- (d) by inserting after the definition of “Fund” the following definition:
 - ‘ “healthcare facility” means any premises in which one or more members of the public receive healthcare services;’;
- (e) by inserting after the definition of “certificate” the following definition:
 - ‘ “Chief Executive Officer” means the Chief Executive Officer of the Council appointed under section 4c who shall act as the Secretary of the Council;’;
- (f) by inserting after the definition of “fully registered medical practitioner” the following definition:
 - ‘ “Fund” means the Malaysian Medical Council Fund established under section 4H;’;
- (g) by inserting after the definition of “healthcare facility” the following definition:
 - ‘ “houseman training” means the period of training in resident medical practice for the purpose of being fully registered medical practitioner;’;

(h) by inserting after the definition of “member” the following definition:

‘ “Minister” means the Minister charged with the responsibility for health;’;

(i) by inserting after the definition of “Registrar” the following definition:

‘ “Specialist” means a fully registered medical practitioner under section 14c;’;

(j) by deleting the definition of “practitioner”;

(k) by inserting after the definition of “registered” the following definitions:

‘ “registered medical practitioner” means a medical practitioner issued with provisional registration under section 12 or full registration under section 14;’;

(l) by inserting after the definition of “fully registered” the following definition:

‘ “fully registered medical practitioner” means a medical practitioner issued with a certificate of full registration under section 14;’;

(m) by inserting after the definition of “provisionally registered” the following definition:

‘ “provisionally registered medical practitioner” means a medical practitioner issued with certificate of provisional registration under section 12;’;

(n) by inserting before the definition of “Chief Executive Officer” the following definition:

‘ “certificate” means either the certificate of provisional registration, certificate of full registration, certificate of registration as a specialist, practicing certificate, temporary practicing certificate or any other certificates as may be determined by the Council from time to time and issued under the Act;’;

(o) in the definition of “practising certificate”, by substituting for the words “referred to in” the words “issued under”;

(p) by inserting after the definition of “Specialist” the following definition:

‘ “temporary practicing certificate” means the temporary practicing certificate issued under section 16;’;

(q) by inserting after the definition of “President” the following definition:

‘ “Professional Indemnity Cover” means a financial security for a registered medical practitioner in a professional liability action;’;

(r) by inserting after the definition of “temporary practising certificate” the following definition:

‘ “traditional and complementary medicine” means a form of health-related practice designed to prevent, treat or manage ailments or illnesses or preserve the mental and physical well-being of an individual and includes such practices as traditional Malay medicine, traditional Chinese medicine, traditional Indian medicine, homeopathy, and complementary therapies, but excludes medical or dental practices used by a registered medical or dental practitioner.’;

(s) by deleting the definition of “Secretary”; and

(t) in the definition of “President”, by deleting the words “appointed by subparagraph 1(1) of the First Schedule”.

Substitution of section 3

4. The principal Act is amended by substituting for section 3 the following section:

“Establishment of the Council

3. (1) A body corporate by the name of “Malaysian Medical Council” is established.

(2) The Council shall have perpetual succession and a common seal.

(3) The Council may sue and be sued in its corporate name.

(4) Subject to and for the purposes of this Act and upon such terms as it deems fit, the Council may—

- (a) enter into contracts;
- (b) acquire, purchase, take, lease, hold, sell and enjoy movable and immovable property of every description; and
- (c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with, any movable or immovable property, vested in the Council.”.

New sections 3A, 3B, 3C, 3D, 3E, 3F and 3G

5. The principal Act is amended by inserting after section 3 the following sections:

“Composition of the Council

3A. (1) The Council shall consist of the following members:

- (a) the Director General who shall be the President;
- (b) nine fully registered medical practitioners from the representatives of recognised local universities and university colleges to be nominated from among the members of the faculty by the governing bodies of the respective recognised local universities and university colleges and appointed by the Minister;
- (c) three fully registered medical practitioners from the private sector to be nominated by the Council and appointed by the Minister;
- (d) three fully registered medical practitioners from the public services to be nominated by the Director General and appointed by the Minister;
- (e) fifteen fully registered medical practitioners resident in Peninsular Malaysia to be elected by the fully registered medical practitioners resident in Peninsular Malaysia;

- (f) one fully registered medical practitioner resident in Sabah to be elected by the fully registered medical practitioners resident in Sabah; and
- (g) one fully registered medical practitioner resident in Sarawak to be elected by the fully registered medical practitioners resident in Sarawak.

(2) No person shall be appointed to be a member under paragraph (1)(b), (c) or (d) or elected as a member under paragraph (1)(e), (f) or (g) unless the person is a citizen of Malaysia and holds a current and valid practising certificate.

(3) No person shall be eligible to elect a member under paragraph (1)(e), (f) or (g) unless the person is a citizen of Malaysia and holds a current and valid practising certificate.

(4) The election of the members referred to in paragraphs (1)(e), (f) and (g) shall be conducted in such manner as may be prescribed.

(5) No person shall serve as an appointed and elected member at the same time.

(6) A person may be appointed to be a member under paragraph (1)(b), (c) or (d) or elected under paragraph (1)(e), (f) or (g) notwithstanding that he has previously been a member under paragraph (1)(b), (c), (d), (e), (f) or (g).

(7) For the purpose of this section, “resident” refers to the principal place of practice as stipulated in the medical practitioner’s current and valid practising certificate.

Tenure of office

3B. (1) Subject to such conditions as may be specified in his instrument of appointment, a member of the Council appointed under paragraph 3A(1)(b), (c) or (d) or elected under paragraph 3A(1)(e), (f) or (g) shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding three years.

(2) A member of the Council appointed under paragraph 3A(1)(b), (c) or (d) or elected under paragraph 3A(1)(e), (f) or (g) shall be eligible for reappointment or reelection.

Revocation of appointment and resignation

3c. (1) The appointment of any member of the Council under paragraph 3A(1)(b), (c) or (d) may, at any time, be revoked by the Minister after consulting the President.

(2) A member of the Council appointed under paragraph 3A(1)(b), (c) or (d) or elected under paragraph 3A(1)(e), (f) or (g) may at any time resign his office by a written notice addressed to the President.

Vacation of office and filling of vacancy

3d. (1) The office of a member of the Council shall be vacated if—

- (a) he dies;
- (b) there has been proved against him, or he has been convicted in Malaysia or elsewhere on a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude; or
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine);
- (c) he becomes a bankrupt;
- (d) he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) he absents himself from three consecutive meetings of the Council or if he attends less than fifty percent of meetings in a year without leave of the President;

- (f) his name has been struck off from the Register or has since been removed from the Register of medical practitioners maintained in any place outside Malaysia;
- (g) his resignation is accepted by the President;
- (h) he is no longer resident in the constituency that elected him; or
- (i) his appointment is revoked by the Minister.

(2) Where a member of the Council appointed under paragraph 3A(1)(b), (c) or (d) or elected under paragraph 3A(1)(e), (f) or (g) dies before completion of his term of office, or resigns, or otherwise ceases to be a member by reason of any provision of this Act, a person shall be appointed or elected, as the case may be, in his place in accordance with the provisions applying in the case of the person dying or resigning or ceasing to be a member for the residue of the term for which such person might have held office if he had not died or resigned or ceased to be a member.

(3) Notwithstanding subsection (2), the vacancy in the office of any member elected under paragraph 3A(1)(e), (f) or (g) shall not be filled for the residue of that term where the death, resignation or ceasing to be a member occurs within twelve months before the date on which his term of office would have come to an end by effluxion of time.

(4) The Council shall not be prevented from performing any of its functions and powers under this Act by any vacancy in its membership.

Power of Minister to appoint members of the Council

3E. (1) If any of the bodies or persons referred to in paragraphs 3A(1)(b), (c), (d), (e), (f) or (g) does not, by such date as may be prescribed, nominate or elect, as the case may be, a person to be a member of the Council, the Minister shall appoint in his place as a member a person qualified to be so nominated or elected and any person so appointed shall be deemed to be a member as if he had been duly nominated or elected, as the case may be, by such body or person.

(2) On the coming into operation of this Act and until such time as the members referred to in paragraph 3A(1)(b), (c), (d), (e), (f) and (g) are nominated or elected, as the case may be, the Minister shall appoint in their place respectively such persons as are qualified to be nominated or elected and the persons so appointed shall be deemed to be members as if they had been duly nominated or elected under paragraphs 3A(1)(b), (c), (d), (e), (f) and (g).

Disqualification from nomination and appointment or election

3F. (1) A fully registered medical practitioner shall not be qualified to be nominated, appointed or elected to be a member under paragraph 3A(1)(b), (c), (d), (e), (f) or (g) if—

- (a) he has been found guilty by a court of any offence involving fraud, dishonesty or moral turpitude, or of any offence punishable with imprisonment (whether in itself only or in addition to or in lieu of a fine); or
- (b) he is a bankrupt; or
- (c) his name has at any time been struck off from the Register or has since been removed from the Register of medical practitioners maintained in any place outside Malaysia.

(2) A fully registered medical practitioner whose name has been suspended from the Register, or who has been reprimanded under section 30 shall not be eligible to be nominated, appointed or elected, as the case may be, under paragraph 3A(1)(b), (c), (d), (e), (f) or (g)—

- (a) in the case of a suspension, for a period of six years after the expiration of such suspension; or
- (b) in the case of a reprimand, for a period of six years from the date of such reprimand.

(3) If a member who has been nominated and appointed or elected under the Act is disqualified to be nominated and appointed or elected under this Act, he shall be deemed to have vacated his seat.

Suspension of member of the Council

3G. (1) Where the Council in the exercise of its disciplinary jurisdiction under this Act—

- (a) appoints a committee to conduct a preliminary investigation; or
- (b) holds a disciplinary inquiry,

in respect of a fully registered medical practitioner who is a member of the Council, such member shall be suspended as a member of the Council.

(2) The suspension referred to in subsection (1) shall—

- (a) in the case of a preliminary investigation, take effect from the date of commencement of the investigation; or
- (b) in the case of a disciplinary inquiry, take effect from the date of institution of the inquiry.

(3) Where at the conclusion of a preliminary investigation the Council determines that a disciplinary inquiry be held, the period of suspension of a member shall continue until the conclusion of the disciplinary inquiry.

(4) A member of the Council who has been suspended under subsection (1) shall forthwith be reinstated as member if at the conclusion of the preliminary investigation or the disciplinary inquiry, as the case may be, the Council finds that no case has been made out in respect of the member.

(5) A member of the Council who is to be reinstated pursuant to subsection (4) shall, if the reinstatement is to take effect before the expiration of his term of office, be reinstated to hold office for the unexpired period of his term of office.”.

Substitution of section 4

6. The principal Act is amended by substituting for section 4 the following section:

“Functions of the Council

4. The Council shall have the following functions:

- (a) to register medical practitioners; and
- (b) to regulate the practice of medicine.”.

New sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H, 4I and 4J

7. The principal Act is amended by inserting after section 4 the following sections:

“Powers of the Council

4A. (1) The Council shall have the power to do all things expedient or reasonably necessary for or incidental to the carrying out of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the powers of the Council shall include power to—

- (a) ensure that the provisions of this Act and the regulations are administered, enforced, given effect to, carried out and complied with;
- (b) regulate the standards of practice of registered medical practitioners;
- (c) regulate the professional conduct and ethics of registered medical practitioners;
- (d) approve or refuse any application for registration or certification in accordance with this Act or regulations;
- (e) determine any fees or fines payable;
- (f) issue certificates;

- (g) borrow or raise money from time to time by bank overdraft or otherwise for any of the purposes specified in this section; and
- (h) recognise and accredit medical qualifications based upon the recommendation of the Joint Technical Committee establish under Malaysian Qualifications Agency Act 2007 [*Act 679*] for the purpose of registration.

Appointment of employees of the Council

4B. (1) The Council may appoint or employ such number of employees as the Council may think necessary, who shall be paid such remuneration, allowances and benefits, and whose appointment or employment shall be on such terms and conditions as the Council considers appropriate for carrying out the purpose of this Act.

(2) No person shall be eligible for appointment or employment as an employee of the Council if he has, directly or indirectly, by himself or through his partner any share or interest in any contract or proposed contract with, for or on behalf of the Council.

Chief Executive Officer

4c. (1) The President shall, after consultation with the Council, appoint a Chief Executive Officer.

(2) The Council shall vest in the Chief Executive Officer such powers and impose upon him such duties as may be determined by the Council.

(3) The Chief Executive Officer shall be the Secretary to the Council and be responsible for—

- (a) the overall administration and management of the functions and the day-to-day affairs of the Council;
- (b) carrying out the decisions and directions of the Council;
- (c) managing the functions, programmes, employees and other resources of the Council; and

(d) preparing strategic plans and budgets for the consideration of the Council.

(4) The Chief Executive Officer shall have general control of the employees of the Council.

(5) In carrying out his duties under this section, the Chief Executive Officer shall act under the general authority and direction of the Council.

(6) The President may, after consultation with the Council, appoint any officer of the Council to carry out the duties of the Chief Executive Officer—

(a) if for any period the Chief Executive Officer is unable, by reason of illness, leave of absence or any other reason, to carry out his duties; or

(b) during any period of vacancy in the office of the Chief Executive Officer.

Common seal

4D. (1) The common seal of the Council shall bear a device as approved by the Council and the seal may from time to time be broken, changed, altered and made anew as the Council thinks fit.

(2) The common seal shall be kept in custody of the Chief Executive Officer or such other person as may be authorised by the Council and shall be authenticated by either the Chief Executive Officer or such person as may be authorised by the Council in writing.

(3) All deeds, documents and other instruments purporting to be sealed with the common seal and duly authenticated shall, until the contrary is proven, be deemed to have been validly executed.

(4) Any deed, document and other instrument which, if executed by a person not being a body corporate, is not required to be under seal may in like manner be executed by the Council or an employee of the Council authorised in that behalf.

(5) The common seal of the Council shall be officially and judicially noticed.

Committees of the Council

4E. (1) The Council may establish any committee as it considers necessary or expedient to assist it in the performance of its functions.

(2) The Council may elect any of its members to be the chairman of a committee.

(3) The Council may appoint any person to be a member of a committee.

(4) The quorum of any such committee shall be three, unless otherwise determined by the Council.

(5) A member of a committee shall hold office for such term as may be specified in his letter of appointment and is eligible for reappointment.

(6) The Council may revoke the appointment of any member of a committee without assigning any reason for the revocation.

(7) A member of a committee may, at any time, resign by giving notice in writing to the President of the Council.

(8) The Council may, at any time, discontinue or alter the constitution of a committee.

(9) A committee shall be subject to, and act in accordance with, any direction given to it by the Council.

(10) The meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(11) A committee shall cause—

(a) minutes of all its meetings to be maintained and kept in proper form; and

- (b) copies of the minutes of all its meetings to be submitted to the Council as soon as practicable.

(12) A committee may invite any person to attend any of its meetings for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(13) Members of a committee and any person invited under subsection (12) shall be paid such allowances and other expenses as the Council may determine after consultation with the Minister.

Delegation of Council's functions and powers

4F. (1) The Council may, in writing, delegate any of its functions and powers, except its power to make subsidiary legislation, to—

- (a) the Chairman;
- (b) a member of the Council; or
- (c) a committee.

(2) Any person delegated with such function and power shall be bound to observe and have regard to all conditions and restrictions imposed by the Council and all requirements, procedures and matters specified by the Council.

(3) Any function and power delegated under this section shall be performed and exercised in the name and on behalf of the Council.

(4) The delegation under this section shall not preclude the Council itself from performing or exercising at any time any of the delegated functions and powers.

Disclosure of interest

4G. A member of the Council or any committee established under section 4E who has or acquires a direct or indirect interest whether by himself, a member of his family or

his associate in relation to any matter under discussion by the Council or committee shall disclose to the Council or committee, as the case may be, the fact of his interest and the nature of that interest.

The Malaysian Medical Council Fund

4H. (1) A fund to be known as the “Malaysian Medical Council Fund” to be controlled and administered by the Council is established.

(2) The Fund shall consist of—

- (a) such sums as may be provided by the Government for the purposes of this Act from time to time;
- (b) all fees and charges imposed by or payable to the Council in accordance with this Act;
- (c) all moneys earned from services provided by the Council in accordance with this Act;
- (d) all moneys derived as income from investments by the Council;
- (e) all moneys derived from the sale, disposal, lease or hire of, or any other dealing with, any property, mortgages, charges or debentures vested in or acquired by the Council;
- (f) all other moneys and property which may in any manner become payable to or vested in the Council in respect of any matter incidental to its functions and powers; and
- (g) all other moneys lawfully received by the Council under this Act, including interest.

Expenditure to be charged on the Fund

4I. The Fund shall be expended for the following purposes:

- (a) paying any expenditure lawfully incurred by the Council;

- (b) paying for the remuneration, allowances and other expenses of the members of the Council, members of committees and employees of the Council;
- (c) paying any expenses, costs or expenditure in relation to the procurement of goods and services, including the engagement of consultants, legal fees and costs and other fees and costs, lawfully incurred or accepted by the Council in the performance of its functions and the exercise of its powers under this Act; and
- (d) generally, paying any other expenses for carrying into effect the provisions of this Act.

Conservation of the Fund

4j. It shall be the duty of the Council to conserve the Fund by so performing its functions and exercising its powers under this Act to secure that the total revenue of the Council are sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.”.

Amendment of section 9

8. Section 9 of the principal Act is amended—

- (a) in the shoulder note, by inserting after the word “**Returns**” the word “, *etc.*”; and
- (b) by inserting after the word “returns” the words “, reports, accounts” and by substituting for the words “from time to time require” the words “require from time to time”.

Amendment of section 12

9. Section 12 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) in subparagraph (a)(i), by inserting after the words “of that Schedule” the words “ for a duration of recognition that shall be determined by the Council ”;

- (ii) by deleting the word “and” at the end of paragraph (aa) and inserting after that paragraph the following paragraph:

“(aaa) he is a citizen or spouse of a citizen or a permanent resident;” and

- (iii) by substituting for the full stop at the end of paragraph (b) the word “; and” and inserting after that paragraph the following paragraph:

“(c) he has proven to the satisfaction of the Council that he is fit and is of good character;” and

- (b) by inserting after subsection (2) the following subsection:

“(3) An application for provisional registration as a medical practitioner shall be made to the Registrar in the specified form and manner and be accompanied by the documents and particulars and payment of a fee as may be determined by the Council.”.

Amendment of section 13

10. Section 13 of the principal Act is amended—

- (a) by substituting for subsection (1A) the following subsection:

“(1A) For the purposes of subsection (2) there shall be established a committee to be known as the Medical Qualifying Committee consisting of the following members:

- (a) the President as Chairman;
- (b) four members of the Council nominated from and representing the recognised local universities and university colleges and appointed by the Chairman;
- (c) four representatives from the Ministry of Health; and
- (d) four other members of the Council nominated from those not representing the recognised local universities and university colleges and appointed by the Chairman.”;

- (b) in subsection (2)—
- (i) by substituting for the word “Board” wherever it appears the word “Committee”; and
 - (ii) by substituting for the words “evidence thereof” the words “determined by the Council from time to time”;
- (c) in subsection (4), by inserting after the word “disability” the words “or any other reason as determined by the Council”;
- (d) by inserting after subsection (4) the following subsection:
- “(4A) Notwithstanding paragraph 12(1)(aaa), the Council may consider any person who is a non citizen and not a spouse of a citizen studying in any recognised local training institution to be provisionally registered for the purpose of obtaining the experience as provided in subsection (2).”; and
- (e) in subsection (9), by substituting for the words “medicine, surgery or obstetric and gynaecology” the word “Medicine”.

Amendment of section 14

11. Section 14 of the principal Act is amended—

- (a) in subsection (1)—
- (i) in paragraph (a), by deleting the word “and” at the end of that paragraph;
 - (ii) by substituting for paragraph (b) the following paragraph:

“(b) he has submitted a certificate issued under subsection 13(2); and”;

and
 - (iii) by inserting after paragraph (b) the following paragraph:

“(c) he has proven to the satisfaction of the Council that he is fit and of good character.”;

(b) in subsection (2), by substituting for the words “shall be in accordance with the provisions of this Act and the regulations thereunder” the words “as a medical practitioner shall be made to the Council in the specified form and manner and be accompanied by such documents or particulars and payment of a fee as may be determined by the Council”; and

(c) by inserting after subsection (2) the following subsections:

“(2A) Notwithstanding subsection (1), any person may be fully registered under this section subject to such restrictions and conditions as may be stipulated by the Council if—

(a) such person intends to teach, do research or pursue a post-graduate course in a specialty area under such recognised training programme in any recognised training institution;

(b) such person possesses medical or surgical skill which the Council considers to be of international standing or to be of special value to the country; or

(c) such person possesses qualifications which in the opinion of the Council are adequate, for so long as he continues to engage himself exclusively in teaching, research or postgraduate study, as the case may be.

(2B) The registration granted under subsection (2A) shall be for a period not exceeding two years and may be renewed at the discretion of the Council for further periods, each not exceeding one year.

(2C) The Council may, at any time, cancel any registration granted under subsection (2A) if such person has been found to have violated any condition of his registration.”; and

(d) in subsection (3), by substituting for the words “as may be stipulated by the Minister” the words “, including qualification, location, place and type of practice”.

New sections 14A, 14B and 14C

12. The principal Act is amended by inserting after section 14 the following sections:

“Registered medical practitioner practising as specialist

14A. (1) No person whose name has not been entered into the Register shall practise as a specialist in that speciality.

(2) Any person who contravenes subsection (1) shall be subjected to the disciplinary jurisdiction of the Council.

Person entitled to registration as specialist

14B. A person is entitled to be registered as a specialist under this Act if—

- (a) he has been fully registered under section 14;
- (b) he has attended specialized training in that speciality in a recognised training institution;
- (c) he holds a recognised specialist qualification; and
- (d) he has proven to the satisfaction of the Council that he is fit and is of good character.

Registration as specialist

14c. (1) The Council shall consider the application made under subsection 18(1) and may require the applicant to produce further information or documents in support of the application.

(2) Where the Council decides to approve the application, the Council shall direct the Registrar to enter the applicant’s name in the Register.

(3) The Council may refuse to register any such person as it thinks fit.

(4) Where the Council refuses to register the applicant under subsection (3), the Council shall immediately serve a notice of refusal to the applicant, together with the reasons therefor.”.

Amendment of section 16**13.** Section 16 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Notwithstanding anything to the contrary contained in this Act, the Council may, upon application in writing, issue to a person who is registered as a medical practitioner outside Malaysia a temporary practising certificate, subject to such conditions and restrictions as the Council may specify in such certificate.”;

(b) by inserting after subsection (1) the following subsections:

“(1A) The Council may refuse the application made under subsection (1).

(1B) The temporary practising certificate issued under subsection (1) shall be valid for a period not exceeding three months from the date the certificate is issued.

(1C) A temporary practising certificate issued under subsection (1) may be renewed on application made in the form and manner and upon payment of such fee as may be determined by the Council.”;

(c) by substituting for subsection (2) the following subsection:

“(2) The person issued with a temporary practising certificate under subsection (1) shall be deemed a registered medical practitioner.”;

(d) by substituting for subsection (3) the following subsection:

“(3) The Council may at any time cancel any temporary practising certificate issued under subsection (1) if such registered person has been found to have violated any conditions or restrictions of his registration.”; and

(e) by inserting after subsection (3) the following subsections:

“(4) The Council shall maintain a record of all temporary practising certificates issued.

(5) Any person who practises without a temporary practising certificate under subsection (1) commits an offence and shall, on conviction, be liable—

- (a) in respect of a first offence, to a fine not exceeding ten thousand ringgit; and
- (b) in respect of a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(6) In the case of a continuing offence, such person shall be liable to a further penalty of one hundred ringgit for each day during which the offence continues in addition to the respective penalty under paragraphs (5)(a) and 5(b).”.

Amendment of section 18

14. Subsection 18(1) of the principal Act is amended by deleting the words “provisionally or fully”.

Amendment of section 19

15. Section 19 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the words “provisional or full”;
- (ii) in paragraph (a), by deleting the words “for a term of two years or upwards”;
- (iii) by substituting for paragraph (b) the following paragraph:
 - “(b) after due inquiry by the Disciplinary Board, been found by it to have been guilty of serious professional misconduct; or”;
 - and

(iv) by substituting for paragraph (c) the following paragraph:

“(c) after due inquiry by a Fitness to Practise Committee, which shall consist of not less than three medical practitioners appointed

by the Council, been found to be unfit to perform his professional duties by reason of his mental or physical condition or any other medical condition.”.

Amendment of section 20

16. Section 20 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Any fully registered person who desires to practise as a medical practitioner after the thirty-first day of December of any year and who produces evidence of having satisfied any requirements or restrictions stipulated by the Council shall, not later than the first day of December of that year, make an application in the prescribed form, produce evidence of professional indemnity cover and pay the prescribed fee for a certificate to practise as a medical practitioner during the ensuing year.”;

(b) in subsection (2), by inserting after the words “(to be styled “annual practising certificate”)” the words “with terms and conditions determined by the Council”;

(c) by substituting for subsection (5) the following subsection:

“(5) Upon being fully registered under section 14, a person who desires to practise as a medical practitioner shall immediately comply with subsection (1).”;

(d) in subsection (6), by inserting after the words “the applicant,” the words “except in the case of a registered medical practitioner without a fixed place of practice (*locum tenens*) where the fact shall be so stated and approved by the Council,”; and

(e) in subsection (7)—

- (i) by substituting for the words “medicine, surgery or obstetrics and gynaecology” the word “Medicine”;
- (ii) in paragraph (a), by substituting for the words “has not an” the words “does not possess a current and valid” and by deleting the words “in force”; and
- (iii) in paragraph (d), by substituting for the words “on the business of a medical practitioner” the words “on a medical practice”.

Substitution of section 21

17. The principal Act is amended by substituting for section 21 the following section:

“List of fully registered medical practitioners issued with annual practicing certificates

21. (1) The Registrar shall maintain a list or lists of the names, addresses, qualifications, dates of the qualifications and dates of full registration of all persons to whom annual practising certificates have been issued for that year.

(2) The list shall be *prima facie* evidence of the particulars contained therein.

(3) Such certificate under the hand of the Registrar of the particulars appearing in the Register in respect of any person shall be conclusive evidence of such particulars.”.

Amendment of section 22

18. Section 22 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Change in permanent address and service of notice, etc.”.

- (b) by renumbering section 22 as subsection 22(1); and
- (c) by inserting after subsection (1) the following subsections:

“(2) Any person who contravenes subsection (1) shall be subjected to the disciplinary jurisdiction of the Council.

(3) Where any notice or correspondence is to be served or sent to a registered medical practitioner, it shall be deemed to have been served or sent to him if it is served or sent by post to his last-known address.” .

Amendment of section 23

19. Section 23 of the principal Act is amended by inserting after the words “Where the Council” the words “has made any order against a medical practitioner or”.

Substitution of section 24

20. The principal Act is amended by substituting for section 24 the following section:

“Removal of names from Register

24. (1) Where the Council is satisfied that a person who is provisionally registered under section 12—

- (a) is not or is no longer attending houseman training;
or
- (b) has contravened any condition or restriction imposed upon him,

the Council may revoke the provisional registration of such person and order his name to be removed from the Register.

(2) The Council may remove from the Register the name of any fully registered medical practitioner who—

- (a) is proved to the satisfaction of the Council to be a deceased person;

- (b) is proved to the satisfaction of the Council incapable, by reason of physical or mental infirmity, or profound incompetence, of carrying out his duties as a medical practitioner;
- (c) has not applied to the Registrar for renewal of his practising certificate for six years consecutively;
- (d) has been registered through an error as to his qualifications for registration, and was not at the time of his registration entitled to be registered;
- (e) has been registered by fraudulent means;
- (f) has contravened or failed to comply with any condition or restriction imposed by the Council;
- (g) has completed his term or contract with the Malaysian Government or such body or organization for such period as may be specified and approved by the Council; or
- (h) has had his registration withdrawn, suspended or cancelled from the Register of medical practitioners maintained in any place outside Malaysia or from any professional register maintained in any place inside or outside Malaysia,

and shall make an endorsement accordingly against the medical practitioner's name in the Register.

(3) The Registrar shall publish in the *Gazette* the name of every registered medical practitioner whose name has been removed from the Register.

(4) For the purpose of satisfying itself that any registered medical practitioner is incapable of carrying out his duties as a medical practitioner under paragraph (2)(b), the Council shall appoint a Fitness to Practise Committee which shall consist of not less than three registered medical practitioners, one of whom shall be a specialist related to the illness, to inquire into each case and to make such recommendations as the Committee deems proper.

(5) Notwithstanding subsection (4), the Fitness to Practise Committee may recommend to the Council for restrictions to be imposed in the carrying out of duties by the registered medical practitioner.”.

New section 24A

21. The principal Act is amended by inserting after section 24 the following section:

“Reinstatement of names in Register

24A. (1) Where the name of a medical practitioner has been removed from the Register in accordance with section 24, he may apply to the Council for his name to be reinstated in the Register.

(2) The Council may, in its discretion, upon application made under subsection (1), order the name of the applicant to be reinstated in the Register or reject the reinstatement of the name by giving reasons therefor.

(3) Any person who has ceased to be registered under this Act under paragraph 24(2)(b) shall not be reinstated unless he has been certified fit by a Fitness to Practise Committee.

(4) The Council may impose such conditions and restrictions as it deems fit to the reinstatement.

(5) Any person whose application has been rejected under subsection (2) may appeal to the Minister within thirty days from the date of the decision.

(6) The decision of the Minister shall be final.”.

Amendment of section 26

22. Section 26 of the principal Act is amended—

(a) in the shoulder note, by deleting the words “**and disabilities of unregistered persons**”;

(b) in subsection (1), by substituting for the words “medicine, surgery and obstetrics and gynaecology” the word “Medicine”; and

(c) by substituting for subsection (2) the following subsection:

“(2) Subject to sections 15, 16 and 34, no person shall be entitled to recover in any court any such charges as are referred to in subsection (1) unless at the date when such charges accrued he was a fully registered medical practitioner and had an annual practising certificate in force.”.

Amendment of section 27

23. The shoulder note to section 27 of the principal Act is amended by substituting for the words “**Medical certificate**” the words “**Certificates and documents**”.

Amendment of section 29

24. Section 29 of the principal Act is amended—

(a) in subsection (2)—

(i) by inserting after paragraph (a) the following paragraph:

“(aa) has had his qualification withdrawn or cancelled by the awarding authority through which it was acquired or by which it was awarded;”;

(ii) in paragraph (b), by substituting for the words “guilty of infamous conduct in any professional respect” the words “alleged to have committed serious professional misconduct as stipulated in the Code of Professional Conduct and any other guidelines and directives issued by the Council”; and

(b) by inserting after subsection (2) the following subsections:

“(3) The Council shall establish a mechanism, including the establishment of a Disciplinary Panel, to inquire into complaints or information received against a medical practitioner.

(4) For the purpose of this section, Disciplinary Panel means a panel, members of which shall be appointed by the Council and from which members of the Preliminary Investigation Committee and Disciplinary Board shall be drawn.”.

New section 29A

25. The principal Act is amended by inserting after section 29 the following section:

“Interim orders

29A. (1) Where upon due inquiry into any complaint or information referred to it, a Disciplinary Board is satisfied that it is necessary for the protection of the members of the public or it is otherwise in the public interest, or it is in the interest of a registered medical practitioner for his registration to be suspended or to be made subject to conditions, the Board may make an order—

- (a) that his registration in the appropriate register be suspended for such period not exceeding twelve months as may be specified in the order (referred to in this Part as an interim suspension order); or
- (b) that his registration be continued on his compliance, during such period not exceeding twelve months as may be specified in the order, of such requirement as the Disciplinary Board thinks fit to impose (referred to in this Part as an order for interim restricted registration).

(2) The Registrar shall immediately serve a notification of the order under subsection (1) on the registered medical practitioner.

(3) Subject to subsection (1), where a Disciplinary Board has made an order under this section, the Disciplinary Board or another Disciplinary Board appointed in its place—

- (a) shall review it within a period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it before the end of a period of three months beginning on the date of the decision of the immediately preceding review; and

(b) may review it where new evidence relevant to the order has become available after the making of the order.

(4) Where an interim suspension order or an order for interim restricted registration has been made under this section in relation to any person, the Disciplinary Board that made the order or another Disciplinary Board appointed in its place under subsection (3) may—

(a) revoke the order or revoke any condition imposed by the order;

(b) make an order varying any condition imposed by the order;

(c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interest of the registered medical practitioner concerned, or that the registered medical practitioner has not complied with any requirement imposed as a condition of his registration in the order for interim restricted registration, replace that order with the interim suspension order having effect for the remainder of the former; or

(d) if satisfied that the public interest or the interest of the registered medical practitioner concerned would be more adequately served by an order for interim restricted registration, replace the interim suspension with an order for interim restricted registration having effect for the remainder of the period of the former.

(5) The Registrar shall immediately serve a notification of the decision under subsection (4) on the registered medical practitioner.

(6) The Disciplinary Board may apply to the President for an order made under subsection (1) to be extended, and may apply again for further extension.

(7) On such an application, the President may extend (or further extend) for up to six months the period for which the order has effect.

(8) An interim suspension order or an order for interim restricted registration shall be in force until—

- (a) the end of the period specified in the order or, if extended under subsection (7), in the order extending it; or
- (b) the date on which proceedings are concluded,

whichever is the earlier.

(9) While a person's registration in the Register is suspended by virtue of an interim suspension order, he shall not be regarded as being registered notwithstanding that his name still appears in the Register.

(10) Immediately upon the expiry or revocation of the order, the person's rights and privileges as a registered medical practitioner shall be revived from the date of such expiry or revocation, provided that he has complied with all the terms of the order.

(11) Any registered medical practitioner who is aggrieved by the decision of the Disciplinary Board or President under this section may appeal in writing to the Minister.

(12) The Minister may confirm, reverse or vary the decision of Disciplinary Board or President.

(13) The Minister's decision on any appeal under subsection (11) shall be final and binding.”.

Substitution of section 30

26. The principal Act is amended by substituting for section 30 the following section:

“**30.** (1) The Council may, in the exercise of its disciplinary jurisdiction, impose any of the following punishments:

- (a) reprimand the medical practitioner;

- (b) order such medical practitioner's registration to be subjected to conditions which may include but are not limited to one or more of the following:
 - (i) that the medical practitioner seek medical treatment;
 - (ii) that such conditions relating to the medical practitioner's practice of medicine as it considers appropriate be imposed on the medical practitioner's registration;
 - (iii) that the medical practitioner undergo educational courses or programmes as may be specified by the Council; or
 - (iv) that the medical practitioner report on his medical practice to such medical practitioner or persons as may be specified by the Council;
- (c) order the name of such medical practitioner to be suspended from the Register for such period as it thinks fit;
- (d) make such order in paragraph (c) but suspend the application thereof, subject to such conditions as the Council may think fit, for a period, or periods in the aggregate, not exceeding two years; or
- (e) order the name of such medical practitioner to be struck off the Register.

(2) The Council may also impose a fine as may be decided by the Council in addition to the punishments in subsection (1).

(3) No registered medical practitioner shall practise as a medical practitioner during the period of suspension under paragraph (1)(c).

(4) Any person who fails to comply with any order made under subsection (1) shall be subject to further disciplinary proceeding.

(5) The Council may, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Registrar and of any complainant or of a medical practitioner, and any costs awarded may be recovered as a civil debt.”.

Amendment of section 31

27. Section 31 of the principal Act is amended by deleting subsection (2).

Amendment of section 31A

28. Subsection 31A (1) of the principal Act is amended—

- (a) by substituting for the words “subparagraph 30(i)” the words “paragraph 30(1)(e)”;
- (b) by inserting after the words “restored to the Register” the words “provided that a period of three years shall have elapsed since the order was made”; and
- (c) by substituting for the words “subparagraph 30(ii)” the words “paragraph 30(1)(c)”.

Amendment of section 32

29. Section 32 of the principal Act is amended by inserting after the words “offence against this Act” the words “and shall, on conviction, be liable in respect of a first offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years and in respect of a second or subsequent offence to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both”.

Amendment of section 33

30. Section 33 of the principal Act is amended—

- (a) in subsection (1), by inserting after the words “offence against this Act” the words “and shall, on conviction, be liable in respect of a first offence to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years and in respect of a second or subsequent offence to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both”; and
- (b) in paragraph (2)(b), by deleting the words “exclusively”.

Amendment of section 34

31. Section 34 of the principal Act is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Traditional and Complementary medicine”; and

(b) by substituting for subsection (1) the following subsection:

“(1) Subject to subsection (2) and regulations made under this Act, nothing in this Act shall be deemed to affect the right of any person under any law in force in Malaysia or any part thereof, not being a person taking or using any name, title, addition or description calculated to induce any person to believe that he is qualified to practise medicine or surgery according to modern scientific methods, to practise traditional and complementary medicine.”.

Amendment of section 34A

32. Section 34A of the principal Act is amended by substituting for subsection (3) the following subsection:

“(3) Any healthcare facility and services managed and operated by the Government and approved by the Minister under subsection (1) shall not be liable for any injury, loss or damage of a civil nature occasioned to any patient or other person solely in consequence of any investigation, examination or treatment of patient under subsection (1) by a person pursuing a course of study in medicine or surgery specified under subsection (1); provided that nothing in this subsection shall be construed as conferring on the person or on the University or University College or approved educational institution where he is pursuing the undergraduate course of study or on any officer or employee of the University or University College or approved educational institution any immunity from any liability for such injury, loss or damage.”.

Amendment of section 34B

33. Section 34B of the principal Act is amended—

- (a) by substituting for the words “fully registered practitioner” the words “medical practitioner”; and
- (b) by substituting for the words “hospital, clinic or health centre or in any other similar institution of the Government” the words “healthcare facility and services”.

Amendment of section 34c

34. Section 34c of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by deleting the word “fully” ; and
 - (ii) by substituting for the words “hospital, clinic or health centre or in any other similar institution” the words “healthcare facility and services”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) The Director General may delegate his power under subsection (1) to any State Health Director or an equivalent officer.”; and
- (c) by substituting for subsection (2) the following subsection:

“(2) A medical practitioner who is authorized under subsection (1) or (1A) to perform any of the functions referred to in paragraphs (1)(a) and (b) shall be deemed to be a Government Medical Officer for the purposes of the Criminal Procedure Code [Act 593] and any other relevant laws in Malaysia.”.

Amendment of section 35

35. Section 35 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by substituting for the words “two thousand ringgit” the words “ten thousand ringgit”; and

(ii) in paragraph (b), by substituting for the words “five thousand ringgit” and “two years” the words “twenty thousand ringgit” and “six years” respectively; and

(b) in subsection (2), by substituting for the words “fifty ringgit” the words “one hundred ringgit”.

New section 35A

36. The principal Act is amended by inserting after section 35 the following section:

“Council may require information

35A. (1) The Council may, from time to time, call for such information as it may require to be furnished by any person whose name is on the Register and such person shall furnish the information within thirty days of being required to do so.

(2) Every person whose name is on the Register shall, within thirty days of any change in the particulars he has furnished to the Council, notify the Council of the change.

(3) A registered medical practitioner who fails to comply with subsection (1) in respect of himself shall be guilty of an offence.”.

Amendment of section 36

37. Subsection 36(2) of the principal Act is amended—

(a) by substituting for paragraph (l) the following paragraph:

“(l) the procedure for the appointment of the committees or boards of the Council;”;

(b) by substituting for paragraph (m) the following paragraph:

“(m) the procedure at meetings, inquiries and other proceedings of the Council, Board or Committee;”;

(c) by substituting for paragraph (n) the following paragraph:

“(n) the procedure to be followed in relation to Preliminary Investigation Committees and Disciplinary Boards under this Act;”;

(d) in paragraph (o), by substituting for the words “systems of therapeutics according to Malay, Chinese, Indian or other native methods” the words “Traditional and Complementary Medicine”; and

(e) by substituting for the full stop at the end of paragraph (p) a semicolon and by inserting after that paragraph the following paragraphs:

“(q) the conditions or restrictions to be imposed on certificates of provisional registration, certificates of full registration, certificates of full registration of registered medical practitioners trained in specialized areas, temporary practising certificates and annual practising certificates;

(r) the keeping of the Register, records, reports and documents and the form and contents thereof;

(s) the form of certificates of provisional registration, certificates of registration, temporary practising certificates and renewals of practising certificates;

(t) the form and manner of conducting examination for the purpose of admission to the Register;

(u) the form and manner in recognising the training institution and the qualification awarded by the recognised training institution;

(v) the houseman training, the condition under which the practical training of apprentices or students shall be conducted and any other matter relating to the training and qualification of medical practitioners;

(w) the form and manner of approving the medical practitioners trained in specialized areas;

- (x) the procedure for the establishment of a Disciplinary Panel from which members of Preliminary Investigation Committees and Disciplinary Boards are to be drawn;
- (y) the receipt of complaints or information touching on any disciplinary matter that may be investigated into by the Preliminary Investigation Committees to determine whether or not there shall be an inquiry;
- (z) the procedure for the inquiry by the Disciplinary Board;
- (aa) the formation of a Fitness to Practise Committee for complaints or information pertaining to registered medical practitioners who are professionally incompetent or are impaired by physical or mental disability;
- (bb) the formation of an Evaluation Committee for the purpose of evaluation and registration of medical practitioners;
- (cc) the formation of an Ethics Committee to advise the Council on issues related to ethics;
- (dd) any other committee for the purposes of this Act; and
- (ee) any other matter for carrying into the effect the objects and purposes of this Act.”.

Amendment of section 40

38. Section 40 of the principal Act is amended in paragraph (4)(b) by substituting for the words “three years” the words “two years”.

Amendment of section 41

39. Section 41 of the principal Act is amended by substituting for the words “three years” the words “two years”.

Amendment of section 42

40. Subsection 42(1) of the principal Act is amended by deleting the words “, by order published in the *Gazette*”.

Amendment of First Schedule

41. The First Schedule to the principal Act is amended—

(a) in paragraph 1, by substituting for the shoulder note the following shoulder note:

“President of Council and procedure at meetings”;

(b) by inserting after subparagraph 1(2) the following subparagraphs:

“(3) The quorum for a meeting of the Council shall be twelve, and the decisions of the Council shall be by a simple majority of the members present and voting.

(4) Every member of the Council present shall be entitled to one vote.

(5) The Chairman at any meeting shall have an original vote and also if upon any question the votes shall be equally divided, a casting vote.

(6) The Council may invite any person to attend a meeting or deliberation of the Council for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(7) A person invited under paragraph (6) may be paid such allowances as the Council may determine.

(8) Every meeting of the Council in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members present thereat to have been duly qualified to act.

(9) Minutes made of meetings of the Council shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(10) Subject to this Act, the Council may make standing orders to regulate its own procedure generally, and in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the custody, production and inspection of such minutes.”;

(c) by substituting for subparagraph 2(1) the following subparagraph:

“(1) The Council shall meet at least six times in a year; and a meeting shall be held in the month of March of each year to receive and adopt the audited annual statement of accounts.”;

(d) by inserting after subparagraph 2(1) the following subparagraph:

“(1A) Meetings of the Council shall be convened by notice in writing by the President to the other members and the meetings shall be held at the times and places specified in the notice.”;

(e) in subparagraph 2(2), by substituting for the word “seven” the word “ten” and by inserting after the words “meeting of the Council” the words “for a specified purpose”;

(f) by inserting after subparagraph 2(2) the following paragraph:

“(2A) At least fourteen days, notice in writing of the meeting referred to in subsections (1) and (2) shall be given to the members.”;

(g) by deleting subparagraph 2(3);

- (h) by deleting subparagraph 2(5);
- (i) by substituting for subparagraph 2(6) the following subparagraph:
- “(6) There shall be paid to all members of the Council such fees for attendance at meetings of the Council or of any committee appointed by the Council and such reasonable travelling expenses and subsistence allowances for such attendance and for journeys undertaken in the discharge of their duties under this Act or any other expenses as the Council may determine with the approval of the Minister from time to time.”;
- (j) by deleting subparagraph 2(7); and
- (k) by deleting paragraphs 3, 4 and 5.

Saving and transitional provisions

42. (1) Notwithstanding anything to the contrary, the members of the Council and the members of any committee appointed or elected before the date of coming into operation of this Act shall continue to hold office until their appointments are revoked or until the expiry of their terms of appointment.

(2) All applications, approvals or decisions, on appeal or otherwise, pending before the Council under the principal Act shall, on the date of coming into operation of this Act, be dealt with by the Council in accordance with the provisions applying under this Act.

(3) All instruments, certificates or documents lodged with the Council under the principal Act before the date of coming into operation of this Act shall, on the date of coming into operation of this Act, be deemed to have been lodged with the Council.

(4) Any proceedings, whether civil or criminal, pending on the date of coming into operation of this Act before the Preliminary Investigation Committee or the Council established under the principal Act shall, after the date of coming into operation of this Act, be continued as if the principal Act had not been amended by this Act.

(5) Any disciplinary offence committed or alleged to have been committed by a medical practitioner before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be dealt with in accordance with the principal Act as if the principal Act had not been amended by this Act.

(6) Any person who, on or before the date of coming into operation of this Act—

- (a) had been registered as a specialist in a registry of specialist;
or
- (b) had been appointed as a specialist by the Director General,

shall be deemed to be registered as a specialist under this Act.