



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

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No. 68 of 1971

An Act to amend the Medical Practitioners Act, 1919-1970.

[Assented to 28th October, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Medical Practitioners Act Amendment Act, 1971".

(2) The Medical Practitioners Act, 1919-1970, as amended by this Act, may be cited as the "Medical Practitioners Act, 1919-1971".

(3) The Medical Practitioners Act, 1919-1970, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of principal Act, s. 3— Interpretation.

3. Section 3 of the principal Act is amended by inserting in the definition of "public hospital" after the passage "1934," the passage "as amended,".

Amendment of principal Act, s. 9— Casual vacancies.

4. Section 9 of the principal Act is amended by striking out from paragraph (a) the passage "two dollars in the pound" and inserting in lieu thereof the passage "one hundred cents in the dollar"

5. Section 16 of the principal Act is amended by inserting in subsection (2) after the passage "1921," the passage "as amended,".
- Amendment of principal Act, s. 16—  
Annual balance-sheet and audit.
6. Section 19 of the principal Act is amended—
- (a) by inserting after paragraph (c) of subsection (1) the word "or";
- (b) by striking out from paragraph (e) of subsection (1)—
- (i) the word "subparagraph" and inserting in lieu thereof the word "paragraph";
- and
- (ii) the word "obtaining" and inserting in lieu thereof the passage "qualifying for".
- Amendment of principal Act, s. 19—  
Qualifications for future registration.
7. Section 20 of the principal Act is amended by striking out from paragraph (c) of subsection (5) the passage "the United Kingdom, another State, a Territory of the Commonwealth or another country where degrees, diplomas, fellowships, memberships or licences in medicine or surgery are a qualification" and inserting in lieu thereof the passage "a place outside South Australia where the qualifications required to practise medicine or surgery are recognized by the board as qualifications".
- Amendment of principal Act, s. 20—  
Application for registration and proceedings thereon.
8. Section 22 of the principal Act is amended—
- (a) by striking out from subsection (1) the passage "a registration fee of";
- (b) by striking out subsection (2b) and inserting in lieu thereof the following subsection:—
- (2b) If a person registered under this Act—
- (a) requests the board to remove his name from the register, the board shall remove his name from the register as from the first day of January next following;
- or
- (b) does not comply with the notification under subsection (2a) of this section, the board shall remove his name from the register as from the first day of January next following unless he pays such restoration fee as may be prescribed.;
- (c) by striking out from subsection (2c) the word "If" and inserting in lieu thereof the passage "Subject to section 22a and section 26c of this Act, if";
- Amendment of principal Act, s. 22—  
Registration and renewal fees.

(d) by inserting in paragraph (a) of subsection (2c) after the passage "upon order of the Supreme Court where his name has been" the passage "ordered to be";

and

(e) by inserting in subsection (6) after the passage "Medical Practitioners" the word "Act".

Enactment of  
s. 22a of  
principal Act—

**9. The following section is enacted and inserted in the principal Act immediately after section 22 thereof:—**

Board may  
refuse  
application for  
restoration in  
certain  
circumstances.

**22a. (1) If the board is satisfied that a person whose name has been removed from the register under section 22 or section 27b of this Act and who has applied for the restoration of his name to the register under subsection (2c) of section 22 of this Act—**

(a) is not of good fame or character;

or

(b) has had his name removed from a register of medical practitioners maintained in a place outside South Australia where the qualifications required to practise medicine or surgery are recognized by the board as qualifications for registration under this Act,

the board may, if it thinks fit, refuse the application for restoration or adjourn the application for further consideration.

(2) The provisions of section 21 of this Act shall apply to any person who applies to have his name restored to the register and who is dissatisfied with the decision of the board made under this section as if he were a person who has applied for registration and is dissatisfied with the decision of the board.

Amendment of  
principal Act,  
s. 24—  
Provisional  
certificate  
may be granted.

**10. Section 24 of the principal Act is amended—**

(a) by inserting in subsection (1) after the word "registered" firstly occurring the passage "pursuant to section 19 or 24a of this Act";

(b) by striking out from subsection (1) the passage "a provisional certificate of registration in the prescribed form" and inserting in lieu thereof the passage "in the prescribed form a provisional certificate of registration or a provisional certificate of limited registration, as the case may require";

and

- (c) by striking out from subsection (3) the passage “, his registration” and inserting in lieu thereof the passage “or is granted a certificate of limited registration under section 24a of this Act, his registration or limited registration, as the case may be,”.

**11. Section 24a of the principal Act is amended—**

- (a) by striking out from paragraph (b) of subsection (1) the word “country” and inserting in lieu thereof the word “place”;
- (b) by striking out from paragraph (c) of subsection (1) the passage “country other than” and inserting in lieu thereof the passage “place outside”;
- (c) by striking out from paragraph (c) of subsection (1) the passage “countries other than” and inserting in lieu thereof the passage “a place outside”;

Amendment of principal Act, s. 24a—  
Power to issue certificate of limited registration in certain cases.

and

- (d) by inserting immediately after subsection (5) the following subsection:—

(5a) Notwithstanding anything in this Act, where a holder of a certificate of limited registration under paragraph (a) or (b) of subsection (1) of this section serves in the position of resident medical officer in an approved institution for a period of time not exceeding one month after the thirty-first day of December in the year in which he commenced that service, and such extended service is performed to complete the period of service required by paragraph (e) of subsection (1) of section 19 of this Act, he is exempted from paying a further annual practice fee in respect of that period of his limited registration.

**12. The following section is enacted and inserted in the principal Act immediately after section 25 thereof:—**

Enactment of s. 25a of principal Act—

25a. (1) Where, on the consideration of a complaint made against a registered person, the board finds that that person has been guilty of conduct which is unprofessional, unethical, or improper in any professional respect, the board may take either or both of the following steps with respect to that person, namely—

Unprofessional conduct.

- (a) censure him;

or

- (b) require him to give such undertaking as the board thinks fit to abstain in future from that conduct.

(2) The board may, upon considering any complaint made against a registered person of unprofessional, unethical or improper conduct, require that person to furnish the board either orally or in writing with an explanation of the circumstances surrounding the conduct the subject of the complaint and with such other particulars as the board may in any case require and that person shall comply with that requirement.

Penalty: Fifty dollars.

(3) If any person fails or refuses to give an undertaking required by the board pursuant to subsection (1) of this section or commits a breach of an undertaking given by him pursuant to such a requirement, the board may suspend his registration, either conditionally or absolutely, for a period not greater than twelve months and that suspension shall be subject to the provisions of section 26 of this Act as if it were a suspension made by the board under that section.

Amendment of  
principal Act,  
s. 26—  
Cancellation or  
suspension of  
registration for  
fraud and on  
other grounds.

**13. Section 26 of the principal Act is amended—**

- (a) by striking out from paragraph (d) of subsection (1) the passage “who is deemed” and inserting in lieu thereof the passage “who, before the commencement of the Medical Practitioners Act Amendment Act, 1971, is found”;
- (b) by inserting in paragraph (d) of subsection (1) after the word “respect” the passage “or who, after the commencement of the Medical Practitioners Act Amendment Act, 1971, is found by the board to have been guilty of serious misconduct in any professional respect”;
- (c) by inserting in the proviso to subsection (1) after the word “Court” the passage “upon and subject to such conditions (if any) as the Court thinks fit”;
- (d) by inserting in subsection (3) after the word “respect” the passage “or serious misconduct in any professional respect”;
- (e) by inserting immediately after subsection (3) the following subsection:—

(3a) If any person fails or refuses to give an undertaking required by the board pursuant to subsection (3) of this section or commits a breach of an undertaking given by him pursuant to such a requirement—

- (a) the board may suspend his registration, either conditionally or absolutely, for a period not greater than twelve months;

or

- (b) his name may be removed from the register by order of the Supreme Court or a judge and the provisions of the proviso to subsection (1) of this section shall apply and have effect accordingly;
  - (f) by inserting in subsection (4) after the word "respect" the passage "or serious misconduct in a professional respect";
  - (g) by striking out from subsection (6) the word "While" and inserting in lieu thereof the passage "Subject to section 26b of this Act, while";
  - (h) by inserting in subsection (7) after the passage "proceeding under" the passage "paragraph (a) or (b) of";
  - (i) by inserting in paragraph (a) of subsection (7) after the passage "give to the said person," the passage "either personally or";
- and
- (j) by inserting in subsection (9) after the word "respect" the passage "or serious misconduct in any professional respect".

**14. Section 26a of the principal Act is amended—**

- (a) by striking out from paragraph (a) of the definition of "hospital" and from paragraph (a) of the definition of "medical superintendent" in subsection (1) the passage "1934-1962" and inserting in lieu thereof in each case the passage "1934, as amended";
  - (b) by striking out from paragraph (b) of the definition of "hospital" and from paragraph (b) of the definition of "medical superintendent" in subsection (1) the passage "1935-1963" and inserting in lieu thereof in each case the passage "1935, as amended";
- and
- (c) by inserting in paragraph (c) of the definition of "hospital" and in paragraph (c) of the definition of "medical superintendent" in subsection (1) after the passage "1935-1964" the passage " , as amended".

Amendment of principal Act, s. 26a—  
Notification of disability of a registered person and suspension from practice of such registered person.

**15. The following sections are enacted and inserted in the principal Act immediately after section 26a thereof:—**

- 26b. Upon the making of any order for suspension under any of the provisions of this Act, the name of the person in respect of whom that order was made shall be removed from the register and, upon the expiry or annulment of that order and upon payment of the prescribed restoration fee, the name of that person shall be restored to the register.

Enactment of ss. 26b and 26c of principal Act—

Removal of name from register on suspension.

Board may  
require refresher  
training in  
certain cases.

26c. (1) Where the name of any registered person has been removed from the register under section 22, 26 or 27b of this Act, the board may, if the board thinks it appropriate and in the public interest so to do, and shall, if the Supreme Court so orders under the proviso to subsection (1) of section 26 of this Act, require that person to carry out a refresher course to the satisfaction of the board for such period of time and in such approved institution as the board thinks fit, before the name of that person is restored to the register.

(2) The board shall, upon payment of such fee or fees as may be prescribed, grant to a person carrying out a refresher course under this section limited registration for the duration of that course and issue him with a certificate of limited registration.

Amendment of  
principal Act,  
s. 27—  
Correction of  
register.

16. Section 27 of the principal Act is amended by striking out from subsection (2) the passage “Registrar-General of Births and Deaths” and inserting in lieu thereof the passage “Principal Registrar of Births, Deaths and Marriages”.

Amendment of  
principal Act,  
s. 29—  
Copy of  
register to be  
published  
annually.

17. Section 29 of the principal Act is amended—

(a) by striking out from subsection (2) the word “are” and inserting in lieu thereof the passage “were, as at the date mentioned in that copy,”;

and

(b) by striking out from the proviso to subsection (2) the passage “truth of such statement” and inserting in lieu thereof the passage “facts stated in that certificate”.

Amendment of  
principal Act,  
s. 29a—  
Determination  
of specialists.

18. Section 29a of the principal Act is amended—

(a) by inserting in subsection (2) after the word “annual” the word “specialist”;

(b) by striking out from paragraph (b) of subsection (2) the word “prescribed”;

(c) by inserting in subsection (3) after the word “annual” firstly occurring the word “specialist”;

(d) by striking out from subsection (3) the passage “(if such annual practice fee has not already been paid)”;

and

(e) by inserting the following subsections immediately after subsection (4) thereof:—

(5) A person who is registered under this section as a specialist shall on or before the thirtieth day of September in each year pay to the board such annual specialist practice fee as may be prescribed for the year commencing on the first day of January next following.

(6) If a person registered as a specialist under this section does not pay the annual specialist practice fee on or before the thirtieth day of September in any year, the board shall forthwith notify him by letter addressed to his last known address that if the fee is not paid by the thirtieth day of November next following his name will be removed from the Specialist Register as from the first day of January next following.

(7) If a person fails to comply with a notification given to him under subsection (6) of this section the board shall remove his name from the Specialist Register as from the first day of January next following unless he pays such restoration fee as may be prescribed.

(8) If a person's name is removed or erased from the Specialist Register under subsection (7) of this section or section 29b of this Act the board may, in such cases as it thinks fit, restore it to that Register upon application by that person in the prescribed form and upon payment of the prescribed restoration fee.

**19.** The following sections are enacted and inserted in Part IIIa of the principal Act immediately after section 29c thereof:—

Enactment of  
ss. 29d, 29e  
and 29f of  
principal Act—

29d. (1) Where, under any of the provisions of Part III of this Act, a person who is registered as a specialist under section 29a of this Act has his name removed from the register of medical practitioners, the board shall forthwith remove his name from the Specialist Register.

Removal from  
Specialist  
Register to  
follow removal  
from general  
register.

(2) Upon the restoration of a person's name to the register under any of the provisions of Part III of this Act, the board may, in such cases as it thinks fit, restore the name of that person to the Specialist Register upon payment of the prescribed restoration fee.



Specialist Register to be open to inspection.

29e. The Specialist Register shall be kept in the office of the registrar and shall at all times be open to inspection by any person on payment of the prescribed fee.

Copy of Specialist Register to be published as Minister may require.

29f. (1) A copy of the Specialist Register shall be sent by the board to the Minister at such times as the Minister may, after consultation with the board, require and the Minister shall thereupon cause the same to be published in the *Gazette*.

(2) Any copy of the Specialist Register appearing in the *Gazette* shall in all courts and before all persons be *prima facie* evidence that the persons therein specified, and no others, were, as at the date mentioned in that copy, registered as specialists in the specialist branches of medicine designated in respect of each person.

(3) A certificate purporting to be signed by the registrar and stating that, at the date mentioned therein, a person was or was not registered as a specialist in a specialist branch of medicine shall be *prima facie* evidence of the facts stated in that certificate.

Amendment of principal Act, s. 31a—  
Power of board to review accounts of persons registered under Act.

20. Section 31a of the principal Act is amended by inserting the following subsection immediately after subsection (2) thereof:—

(2a) In such circumstances as in the opinion of the board are proper, the board may—

(a) waive, reduce or defer payment of the prescribed fee referred to in subsection (2) of this section;

or

(b) except where judgment has been given or obtained in any such action or suit referred to in subsection (1) of this section, extend the time within which the party chargeable may apply to the board for review of his account for a period not exceeding six months from the date on which that person was served with the account.

Amendment of principal Act, s. 33—  
With certain exceptions, only a registered person to give certificate of cause of death.

21. Section 33 of the principal Act is amended by striking out from the proviso the passage “, and no person who had practised as aforesaid,”.

Amendment of principal Act, s. 35—  
Unregistered persons advertising or holding themselves out as medical practitioners.

22. Section 35 of the principal Act is amended by striking out from subsection (2) the passage “of not less than five pounds and not more than fifty pounds” and inserting in lieu thereof the passage “not exceeding two hundred dollars”.

**23.** Section 36 of the principal Act is amended by striking out the passage "of not less than one pound and not exceeding fifty pounds" and inserting in lieu thereof the passage "not exceeding two hundred dollars".

Amendment of principal Act, s. 36—  
Person advertising contrary to section 35 liable to penalty.

**24.** The following section is enacted and inserted in the principal Act immediately after section 37 thereof:—

Enactment of s. 37a of principal Act—

37a. Nothing in this Act shall in any way render liable for breach of the provisions of this Act any medical practitioner entitled to practise medicine or surgery in any State or Territory of the Commonwealth under the law for the time being in force in that State or Territory who gives or performs in a case of emergency any medical or surgical service, attendance, operation or advice.

Emergency treatment by persons registered in another State.

**25.** The second schedule to the principal Act is amended—

Amendment of second schedule of principal Act.

- (a) by striking out from subsection (12) of section 2 the numerals "1947" and inserting in lieu thereof the numerals "1917";
- (b) by striking out from subsection (1) of section 3 the passage "is or has been qualified" and inserting in lieu thereof the passage "has the qualifications required";
- (c) by striking out from subsection (1) of section 3 the passage "has been resident in South Australia for not less than three months may, subject to the provisions of the next succeeding paragraph and" and inserting in lieu thereof the passage "is resident in South Australia may";
- (d) by striking out subsection (2) of section 3;
- (e) by inserting in subsection (3) of section 3 after the passage "shall," the passage "if the applicant has immediately prior to the time of his application resided in Australia for a period of three months or such lesser period as the board thinks fit and";
- (f) by striking out from paragraph (a) of subsection (4) of section 3 the passage "is or has been qualified" and inserting in lieu thereof the passage "has the qualification required";
- (g) by striking out paragraph (b) of subsection (4) of section 3;

(*h*) by striking out from paragraph (*b*) of section 5 the word "remuneration" and inserting in lieu thereof the word "examination";

and

(*i*) by striking out section 9.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Lieutenant-Governor