



Number 12 of 2011

MEDICAL PRACTITIONERS (AMENDMENT) ACT 2011

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[No. **12.**] *Medical Practitioners (Amendment) Act* [2011.]
2011.

ACT REFERRED TO

Medical Practitioners Act 2007

2007, No. 25



Number 12 of 2011

MEDICAL PRACTITIONERS (AMENDMENT) ACT 2011

AN ACT TO AMEND AND EXTEND THE MEDICAL PRACTITIONERS ACT 2007.

[8th July, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Act of 2007” means the Medical Practitioners Act 2007. Definition.

2.—Section 2 of the Act of 2007 is amended—

Amendment of
section 2 of Act of
2007.

(a) by the substitution of the following for the definition of “registered”:

“ ‘registered’, in relation to a medical practitioner, means registered under section 44, 46, 47, 48, 49, 50 or 50A;”,

(b) by the substitution of the following for the definition of “registered medical practitioner”:

“ ‘registered medical practitioner’, subject to section 56A, means a medical practitioner whose name is for the time being entered in the register;”,

and

(c) by the insertion of the following definition:

“ ‘Supervised Division’ means that division of the register referred to in section 43(2)(e);”.

3.—Section 7 of the Act of 2007 is amended in subsection (2) by the insertion of the following after paragraph (b):

Amendment of
section 7 of Act of
2007.

“(ba) approve posts for the purposes of section 50A;”.

[No. 12.] *Medical Practitioners (Amendment) Act [2011.]*
2011.

Amendment of
section 11(2) of Act
of 2007.

4.—Section 11(2) of the Act of 2007 is amended by the insertion after paragraph (r) of the following paragraphs:

- “(ra) the setting of criteria for assessing applications for registration, in the Supervised Division, in respect of which different criteria shall be set in relation to different classes of posts,
- (rb) the specification of examinations and assessments for the purposes of enabling a practitioner who has applied or intends to apply for registration in the Supervised Division to satisfy the Council that the criteria set in rules made under paragraph (ra) have been met.”.

Amendment of
section 36(1) of Act
of 2007.

5.—Section 36(1) of the Act of 2007 is amended—

(a) by the substitution of the following for paragraph (a):

“(a) the registration under section 46, 47, 48, 49 or 50A of a medical practitioner,”,

and

(b) by the substitution of the following for paragraph (b):

“(b) the annual retention of the registration under section 44, 46, 47, 48, 49 or 50A, of a medical practitioner,”.

Amendment of
section 43 of Act of
2007.

6.—Section 43 of the Act of 2007 is amended:

(a) in subsection (2)—

(i) by the substitution of “shall consist of 5 divisions” for “shall consist of 4 divisions”,

(ii) by the substitution in paragraph (c) of “as the Council considers appropriate,” for “as the Council considers appropriate, and”,

(iii) by the substitution in paragraph (d) of “as the Council considers appropriate, and” for “as the Council considers appropriate.”, and

(iv) by the insertion after paragraph (d) of the following paragraph:

“(e) the Supervised Division, which shall include the names of those medical practitioners registered in that division pursuant to section 50A and such other identifying particulars of those practitioners (including the individually numbered, identifiable post to which each such registration applies) as the Council considers appropriate.”,

and

- (b) in subsection (4)(a)(ii), to substitute “the Trainee Specialist Division, the Visiting EEA Practitioners Division or the Supervised Division,” for “the Trainee Specialist Division or the Visiting EEA Practitioners Division,”.

7.—Section 45 of the Act of 2007 is amended—

Amendment of
section 45 of Act of
2007.

- (a) in subsection (2), by the substitution of “sections 46, 47, 48, 49, 50, 50A, 53 and 54(4)” for “sections 46, 47, 48, 49, 50, 53 and 54(4)”, and
- (b) in subsection (7), by the substitution of “section 46, 47, 48, 49 or 50A” for “section 46, 47, 48 or 49”.

8.—The Act of 2007 is amended by the insertion after section 50 of the following section:

Registration of
medical
practitioners in
Supervised
Division.

“Registration
of medical
practitioners in
Supervised
Division.

50A.—(1) The Council shall register in the Supervised Division a medical practitioner who applies to have his or her name entered in the register where that practitioner meets—

- (a) the requirements specified in this Act relating to the registration of medical practitioners in the Supervised Division, and
- (b) the relevant criteria specified in rules made under section 11 relating to the registration of medical practitioners in the Supervised Division.

(2) Subsection (1) does not apply in relation to a medical practitioner who—

- (a) meets the requirements specified in this Act, and
- (b) meets the criteria specified in rules made under section 11,

to permit that practitioner to be registered in another division of the register.

(3) A medical practitioner may not be registered in the Supervised Division for a period in excess of 2 years in aggregate.

(4) The registration of a medical practitioner in the Supervised Division shall apply to that practitioner only in respect of an individually numbered, identifiable post which has been approved by the Council for the purpose of this section and which post is certified by the Health Service Executive to be a publicly funded post.

(5) The Council shall not approve a post pursuant to subsection (4) unless it is satisfied that adequate arrangements for the supervision of the medical practitioner to whom the application for

registration relates in the performance of his or her duties in the post have been established, having regard to the level of experience of the practitioner to whom the application for registration relates, the seniority of the post and the duties to be performed by that practitioner.

(6) A medical practitioner whose name is entered in the Supervised Division may not practise medicine in the State other than—

- (a) in the post referred to in subsection (4) in relation to which that practitioner is registered, and
- (b) in accordance with the terms and conditions of employment relating to that post.

(7) The Health Service Executive shall not certify that a post is a publicly funded post unless the remuneration and benefits in respect of the post are funded entirely or to a substantial extent by the Health Service Executive.

(8) Where a medical practitioner registered in the Supervised Division ceases to hold the post to which his or her registration relates, that person shall cease to be so registered.

(9) Where a medical practitioner registered in the Supervised Division ceases to hold the post to which his or her registration relates, the employer of that practitioner shall notify the Council of that fact within 5 days of the practitioner ceasing to hold such post.”.

Amendment of
section 52 of Act of
2007.

9.—Section 52 of the Act of 2007 is amended by the insertion after subsection (5) of the following subsection:

“(5A) Subsections (4) and (5) do not apply to a medical practitioner registered in the Supervised Division.”.

Application of Parts
7, 8 and 9 to
medical
practitioners
previously
registered in
Supervised
Division.

10.—The Act of 2007 is amended by the insertion, after section 56, but in Part 7, of the following section:

“Application
of Parts 7, 8
and 9 to
medical
practitioners
previously
registered in
Supervised
Division.

56A.—In this Part and in Parts 8 and 9, notwithstanding the definition of registered medical practitioner in section 2, a reference to a registered medical practitioner shall, subject to section 60(1A) and section 70A, be construed as including a reference to a medical practitioner whose name was previously registered in the Supervised Division but whose name is no longer so registered and who is not registered in any other division of the register whether or not the registration of the medical practitioner ceased before or after the making of a complaint.”.

[2011.] *Medical Practitioners (Amendment) Act* [No. 12.]
2011.

11.—Section 60 of the Act of 2007 is amended—

Amendment of
section 60 of Act of
2007.

- (a) by the insertion of the following subsections after subsection (1):

“(1A) In the case of a medical practitioner whose name was previously registered in the Supervised Division and that practitioner’s name is not registered in any other division of the register, the Council may make an *ex parte* application to the Court for an order prohibiting that practitioner from applying for registration in any of the divisions of the register.

(1B) The Council shall not make an application under subsection (1A) unless it considers that the prohibition sought is necessary to protect the public until steps or further steps are taken under this Part and, if applicable, Parts 8 and 9.

(1C) An application under subsection (1A) may be made whether or not the practitioner is the subject of a complaint.”,

- (b) in subsection (2), by the substitution of “subsection (1) or (1A)” for “subsection (1)”,

- (c) by the insertion of the following after subsection (3):

“(3A) The Court may determine an application under subsection (1A) by—

- (a) making any order it considers appropriate, including an order prohibiting the medical practitioner the subject of the application from applying for registration in any division of the register for the period specified in the order, and

- (b) giving to the Council any direction that the Court considers appropriate.”,

and

- (d) in subsection (4) by substitution of “under subsection (3) or (3A), as the case may be,” for “under subsection (3).”.

12.—Section 70 of the Act of 2007 is amended in paragraph (b) by the substitution of “under section 71 or 71A, as may be appropriate,” for “under section 71”.

Amendment of
section 70 of Act of
2007.

13.—The Act of 2007 is amended by the insertion, after section 70, but in Part 9, of the following section:

Sections 71 and 72
not to apply in
certain cases.

“Sections 71
and 72 not to
apply in
certain cases.

70A.—Sections 71 and 72 do not apply where the medical practitioner concerned was previously registered in the Supervised Division but his or her registration in that division has ceased and he or she is not registered in any other division of the register.”.

[No. 12.] *Medical Practitioners (Amendment) Act* [2011.]
2011.

Duty of Council to decide on appropriate sanction in certain cases (Supervised Division).

14.—The Act of 2007 is amended by the insertion, after section 71, of the following section:

“Duty of Council to decide on appropriate sanction in certain cases (Supervised Division).

71A.—In the case of a medical practitioner who was previously registered in the Supervised Division but his or her registration in that division has ceased and he or she is not registered in any other division of the register, the Council shall, as soon as practicable after receiving and considering the report referred to in section 69(1) of the Fitness to Practise Committee in relation to a complaint concerning a medical practitioner where section 70(b) is applicable, decide that one or more than one of the following sanctions be imposed on the practitioner:

- (a) an advice or admonishment, or a censure, in writing;
- (b) a censure in writing and a fine not exceeding €5,000;
- (c) the attachment of conditions which are to apply to the registration of the medical practitioner where the practitioner applies for registration on the register, including restrictions on the practice of medicine that may be engaged in by the practitioner;
- (d) a prohibition on the practitioner from applying for a specified period for registration in one or more than one division of the register.”.

Provisions supplemental to section 71A.

15.—The Act of 2007 is amended by the insertion after section 72 of the following section:

“Provisions supplemental to section 71A.

72A.—The Council shall, on deciding under section 71A to impose a sanction referred to in section 71A(b), (c) or (d) on a medical practitioner, specify—

- (a) in the case of a sanction referred to in section 71A(b), the amount of the fine imposed on the practitioner,
- (b) in the case of a sanction referred to in section 71A(c), the nature of the conditions to be attached to the practitioner’s registration,
- (c) in the case of a sanction referred to in section 71A(d), the period for which the practitioner is prohibited from applying for registration in the register.”.

[2011.] *Medical Practitioners (Amendment) Act* [No. 12.]
2011.

16.—Section 73 of the Act of 2007 is amended—

Amendment of
section 73 of Act of
2007.

- (a) in subsection (1), by the substitution of “section 71 or section 71A, as the case may be,” for “section 71”,
- (b) in subsection (2), by the substitution of “section 71(a) or 71A(a)” for “section 71(a)”.

17.—Section 74 of the Act of 2007 is amended—

Amendment of
section 74 of Act of
2007.

- (a) by the substitution of “under section 71 or 71A” for “under section 71”, and
- (b) by the substitution of “in section 71(a) or 71A(a)” for “in section 71(a)”.

18.—Section 75 of the Act of 2007 is amended in subsection (1)—

Amendment of
section 75(1) of Act
of 2007.

- (a) by the substitution of “under section 71 or 71A” for “under section 71”, and
- (b) by the substitution of “in section 71(a) or 71A(a)” for “in section 71(a)”.

19.—Section 76 of the Act of 2007 is amended—

Amendment of
section 76 of Act of
2007.

- (a) in subsection (1)—
 - (i) by the substitution of “under section 71 or 71A” for “under section 71”, and
 - (ii) by the substitution of “in section 71(a) or 71A(a)” for “in section 71(a)”,and
- (b) in subsection (3) by the substitution of “under section 71 or 71A” for “under section 71”.

20.—(1) This Act may be cited as the Medical Practitioners (Amendment) Act 2011.

Short title and
commencement.

(2) This Act, other than *sections 1, 2, 5, and 20*, shall come into operation on such day or days as the Minister may by order appoint, either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.