

Bill No. 85 of 2010

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 2010

A

BILL

further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

102 of 1956.

5 2. After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

Insertion of new sections 3A, 3B and 3C.

'3A. (1) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

Power of Central Government to supersede the Council and to constitute a Board of Governors.

10

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

15

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and the other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Council stands superseded,—

(a) the provisions of this Act shall be construed as if for the word "Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall—

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same; and

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Certain
modifications
of the Act.

Power of
Central
Government
to give
directions.

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.'

Ord. 2 of 2010. **3.** (1) The Indian Medical Council (Amendment) Ordinance, 2010, is hereby repealed. Repeal and saving.

Ord. 2 of 2010. (2) Notwithstanding the repeal of the Indian Medical Council (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 was enacted to provide for the reconstitution of the Medical Council of India and the maintenance of a Medical Register for India and for matters connected therewith. The Council's main function is to make recommendations to the Central Government in matters of recognition of medical qualifications, determining the courses of study and examinations required to obtain such qualifications, inspection of examinations and maintenance of register of medical practitioners, etc. Certain recent developments in the functioning of Medical Council of India affecting the standards of medical education, recognition of medical institutions, etc., have shaken the confidence of the general public in the functioning of the Medical Council necessitating urgent remedial measures. However, it is found that the Act does not contain any enabling provision for taking over the powers of the President of the Council or superseding the Council in case of necessity. It has, therefore, been considered necessary to entrust the affairs of the Medical Council of India to a Board of Governors consisting of eminent doctors till such time the Council is reconstituted or altogether a new body like the National Council for Human Resources in Health as an over arching regulatory body is established by suitable legislation. Some more time is required to examine and harmonize the different views, and come up with an implementable and feasible model that has the consensus of all stakeholders.

2. In the circumstances explained above, immediate steps were required to be taken to put in place a Board of Governors to exercise the powers and discharge the functions of the Medical Council of India bringing in transparency and accountability in carrying out the functions of the Council. Hence, it has been decided to supersede the Indian Medical Council and to appoint a Board of Governors to remain functional for a period of one year or until the Indian Medical Council is reconstituted, whichever is earlier. It has also been decided to empower the Central Government to issue policy directives to the Board of Governors or the Council, as the case may be.

3. As Parliament was not in session and urgent legislation was required to be made, the President promulgated the Indian Medical Council (Amendment) Ordinance, 2010 on the 15th May, 2010.

4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 26th July, 2010.

GHULAM NABIAZAD.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert new sections 3A, 3B and 3C in the Indian Medical Council Act, 1956. The proposed new section 3A *inter alia* provides for constitution of a Board of Governors consisting of not more than seven members in place of the Medical Council of India for a period of one year or till the Council is reconstituted, whichever is earlier. The Chairperson and other members, other than *ex officio* members, of the Board of Governors shall be entitled to such sitting fee and other allowances as may be determined by the Central Government. It is expected that such expenditure on sitting fee and travelling and other allowances would be minimal and will be met from the funds of the Medical Council of India.

Further, as the expenditure would depend on the number of meetings of the Board of Governors during the current financial year, *i.e.*, 2010-11, recurring or non-recurring expenditure cannot be anticipated at this stage.

LOK SABHA

A

BILL

further to amend the Indian Medical Council Act, 1956.

(Shri Ghulam Nabi Azad, Minister of Health and Family Welfare)