

[AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE]

*House of Representatives, 3 September 1970.*

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

*Hon. Mr McKay*

## MEDICAL PRACTITIONERS AMENDMENT

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### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the Medical Practitioners Act 1968

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,  
5 as follows:

**1. Short Title**—This Act may be cited as the Medical Practitioners Amendment Act 1970, and shall be read together with and deemed part of the Medical Practitioners Act 1968\* (hereinafter referred to as the principal Act).

01 **2. Interpretation**—Section 2 of the principal Act is hereby amended by adding the following definition:

“‘Supreme Court’ means the Administrative Division of that Court.”

\*1968, No. 46

No. 45—2

**3. Committees and subcommittees of Council**—(1) Section 13 of the principal Act is hereby amended by omitting from subsection (1) the words “members of the Council”, and substituting the word “persons”.

(2) The said section 13 is hereby further amended by repealing subsection (3), and substituting the following subsection: 5

“(3) Any committee or subcommittee established under this section may include persons who are not members of the Council or of the Medical Education Committee, as the case may require.” 10

(3) Section 14 of the principal Act is hereby consequentially amended by omitting from paragraph (a) of subsection (3) the words “including members of the Medical Education Committee”, and substituting the words “and to the members of the Medical Education Committee, and to the members of any committee or subcommittee established under section 13 of this Act who are neither members of the Council nor of the Medical Education Committee”. 15

**4. Duty of Council to provide statistical information**—The principal Act is hereby further amended by inserting in Part I, after section 14, the following section: 20

“14A.

*Struck Out*

(1) The Minister may from time to time, by notice in writing, require the Council to provide him with such returns and statistical information as may be specified in the notice relating to the discharge of its functions, or to the discharge of the functions of any of its committees, or to any matters connected with those functions, as he may require. 25 30

“(2) Any return or statistical information required under subsection (1) of this section shall be provided within such time as may be specified in the notice or within such extended time as the Minister may allow, and shall be provided in the manner and form from time to time notified in writing to the Council by the Minister. 35

*New*

(1) The Minister may from time to time, by notice in writing, request the Council to supply him with such statistical information as may be specified in the notice relating to the discharge of its functions, or to the functions of any of its committees, or to any matters connected with those functions, as the case may require. 40

*New*

“(2) Any statistical information requested under subsection (1) of this section shall be supplied within such time as may be specified in the notice or within such extended time as the  
 5 Minister may allow, and shall be supplied in the manner and form from time to time notified in writing to the Council by the Minister:

“Provided that nothing in this subsection shall require the Council to supply any information which is not already in its  
 10 possession.”

“(3) If the Minister is satisfied that compliance with any (requirement) request made under subsection (1) of this section would involve the Council in monetary expense, he  
 15 may, out of money appropriated by Parliament and with the concurrence of the Minister of Finance, make a grant to the Council to enable it to meet that expense.”

**5. Qualifications for conditional registration**—(1) Section 15 of the principal Act is hereby amended by repealing paragraphs (b) and (c) of subsection (1), and substituting the  
 20 following paragraphs:

“(b) That he is registered or qualified to be registered in the register kept in accordance with the provisions of the Acts regulating the registration of medical practitioners in the United Kingdom or the  
 25 Republic of Ireland by virtue of a degree, diploma, or other qualification granted by a university or institution in either the United Kingdom or the Republic of Ireland; or

“(c) That, being the holder of a degree, diploma, or other qualification recognised by the Council for the purposes of this paragraph, he has since obtained one of the qualifications which is specified in the  
 30 first column of the Second Schedule to this Act and which was granted by the institution specified in the second column of that Schedule in relation to that qualification; or

“(d) That he—  
 “(i) Is the holder of a degree, diploma, or other qualification which is specified in the first column of the Third Schedule to this Act and which was granted by the university or institution specified in the second column of that Schedule in relation to that qualification; and  
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“(ii) Is registered in the medical register kept in the country in which the degree, diploma, or other qualification was granted; and

“(iii) Has a reasonable command of the English language: 5

“Provided that, if the Council considers that there is good and sufficient reason for the person not being registered in the country in which the degree, diploma, or qualification was granted, it may dispense with that requirement.”

(2) The said section 15 is hereby further amended by 10 repealing subsection (2), and substituting the following subsections:

“(2) The Governor-General may from time to time by Order in Council,—

“(a) Insert or omit from the Second Schedule to this Act 15 any qualification and the name of the institution which granted it:

“(b) Insert or omit from the Third Schedule to this Act any degree, diploma, or other qualification and the name of the university or institution which granted 20 it:

“(c) Revoke the said Second Schedule or the said Third Schedule and substitute a new Second or Third Schedule, as the case may require.

“(3) Every Order in Council made under subsection (2) 25 of this section shall have effect according to its tenor.”

(3) The principal Act is hereby further amended—

(a) By adding, as the Second Schedule to that Act, the Schedule set out in the First Schedule to this Act:

(b) By adding, as the Third Schedule to that Act, the 30 Schedule set out in the Second Schedule to this Act.

#### **6. Qualifications for registration as medical practitioners—**

(1) Section 18 of the principal Act is hereby amended by inserting, after paragraph (d) of subsection (1), the word “or”, and by adding to that subsection the following para- 35 graph:

“(e) That he is the holder of a certificate of probationary registration under this Act and has had satisfactory experience of the practice of medicine or surgery in the hospital or institution specified in that 40 certificate for a total period of not less than 12 months.”

(2) The said section 18 is hereby further amended by repealing subsection (2), and substituting the following subsection:

5 “(2) In determining whether a person is entitled to be registered as a medical practitioner by virtue of his being eligible to be conditionally registered under paragraph (d) of subsection (1) of section 15 of this Act, the Council shall take into account the proviso to that paragraph in the same way as it would have done if it were considering an applica-  
10 tion by that person for conditional registration under that paragraph.”

**7. Entry of additional degrees, diplomas, and other qualifications in the register**—The principal Act is hereby amended by repealing section 28, and substituting the following section:

15 “28. (1) Every person who is registered as a medical practitioner or conditionally registered, and who obtains any medical or surgical degree, diploma, or other qualification, other than that by virtue of which he is registered or conditionally registered, may apply to the Council to amend the  
20 register so far as it relates to the qualifications of that person; and, on any such application, the Council shall, if satisfied that the applicant is entitled to the degree, diploma, or other qualification in respect of which the application is made, and that that degree, diploma, or qualification is of sufficient stand-  
25 ing to warrant its inclusion in the register, direct the Secretary to the Council to make the necessary entry; and the Secretary shall thereupon make that entry accordingly.

“ (2) Where a person is registered as a medical practitioner or conditionally registered by virtue of being eligible or  
30 entitled to be conditionally registered pursuant to paragraph (c) of subsection (1) of section 15 of this Act, the Secretary to the Council shall insert in the register, in addition to the particulars of the degree, diploma, or other qualification recognised by the Council for the purposes of  
35 that paragraph, particulars of the material further qualification (being a qualification specified in the Second Schedule to this Act) which is held by that person.

“ (3) Where any person is registered as a medical practitioner or conditionally registered and, at the time of his  
40 registration or conditional registration, holds a medical degree, diploma, or other qualification other than the one by virtue of which he is registered or conditionally registered, he may apply to the Council for the first-mentioned degree, diploma, or qualification to be entered in the register; and, on any such

application, the Council shall, if satisfied that the applicant is entitled to the degree, diploma, or qualification in respect of which the application is made and that that degree, diploma, or qualification is of sufficient standing to warrant its inclusion in the register, direct the Secretary to the Council to make the necessary entry; and the Secretary shall thereupon make that entry accordingly.” 5

**8. Probationary registration—**(1) The principal Act is hereby further amended by inserting, after section 33, the following section: 10

“33A. (1) Notwithstanding anything to the contrary in this Act, but subject to the provisions of this section, any person may apply to the Council for a certificate of probationary registration, and if it is satisfied that the applicant—

“(a) Has a reasonable command of the English language; 15  
and

“(b) Is the holder of a degree, diploma, or other qualification which—

“(i) Was granted by a university or institution outside New Zealand; and 20

“(ii) Entitles him to practise medicine and surgery in the country in which his degree, diploma, or other qualification was granted; and

“(iii) Is recognised by the Council for the purposes of this section as evidence that the holder has sufficient knowledge and experience to practise efficiently medicine and surgery in a hospital or other institution,— 25

the Council may, on payment of the prescribed fee (if any), issue to him a certificate of probationary registration entitling him, subject to subsection (6) of this section, to practise as a medical practitioner for a period not exceeding 18 months in such hospital or institution as may be specified in the certificate. 30

“(2) The provisions of sections 19 to 23 of this Act, with any necessary modifications, shall apply to every application for a certificate of probationary registration under this section in the same manner and to the same extent as if it were an application for registration as a medical practitioner or for conditional registration. 40

“(3) The Council may from time to time, on application being made in writing to it for the purposes by the holder of a certificate issued under subsection (1) of this section,—

“(a) Extend the period for which the certificate was issued for a further period not exceeding 18 months; or 45

“(b) Substitute another hospital or institution for the one specified in the certificate.

5 “(4) Where any application is made under subsection (3) of this section, it shall be accompanied by the applicant’s certificate of probationary registration, and, if the application is approved, the Secretary to the Council shall either advise the particulars of the extension or substitution on the certificate or issue to the applicant a new certificate. If the Council has refused to approve the application, the Secretary shall, if  
10 the certificate remains in force, return it to the applicant.

“(5) While any certificate of probationary registration remains in force, its holder shall, for all purposes, be deemed to be registered as a medical practitioner at all times when he is practising medicine or surgery in the hospital or institution specified in the certificate but not otherwise.  
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“(6) On the registration of the holder of a certificate of probationary registration as a medical practitioner, the certificate of probationary registration shall cease to have effect.

“(7) The Council may at any time direct a certificate of probationary registration issued under this section to be cancelled:  
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“Provided that no such direction may be given unless the holder of the certificate has been given a reasonable opportunity of being heard by the Council.

25 “(8) On receiving a direction under subsection (7) of this section, the Secretary to the Council shall cancel the certificate of probationary registration, and shall notify in writing the person affected of the cancellation and of the reasons why the direction was made.

30 “(9) If any person is dissatisfied with any direction made by the Council in respect of him under subsection (6) of this section, he may, within 28 days after the day on which the direction was notified to him, appeal to the Supreme Court against the decision.

35 “(10) On any appeal under this section, the Supreme Court may revoke or confirm the direction. Any revocation may be subject to such conditions as the Court thinks just and equitable. The decision of the Court shall be final and conclusive.

40 “(11) Every certificate cancelled under subsection (8) of this section shall remain cancelled notwithstanding any appeal under subsection (9) of this section.

“(12) If the Court revokes any direction made under subsection (6) of this section, the Secretary to the Council shall, on being notified of the revocation, issue a certificate for the balance of the period which was outstanding at the date of the cancellation.

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“(13) The provisions of subsections (6) to (12) of this section are in addition to those of Part III of this Act so far as the provisions of that Part can be applied to the holders of certificates of probationary registration.”

(2) Section 67 is hereby consequentially amended by adding to subsection (5) the following paragraph: 10

“(d) Any person holding a certificate of probationary registration for the time being in force under section 33A of this Act.”

**9. Complaints to Disciplinary Committee**—The principal Act is hereby amended by inserting, after section 42, the following section: 15

“42A. (1) Any person (including any person in the service of the Crown acting in his official capacity) may make a complaint to the Disciplinary Committee alleging any registered medical practitioner or any person who is conditionally registered to be guilty of professional misconduct. Every such complaint shall be in writing and addressed to the Secretary of the Disciplinary Committee. 20

“(2) Any complaint made under subsection (1) of this section shall, for the purposes of section 43 of this Act, be deemed to be a charge of professional misconduct, whether the words ‘professional misconduct’ appear in the complaint or not, unless, in the opinion of the Chairman of the Disciplinary Committee,— 25 30

“(a) The complaint is frivolous or vexatious or is not sufficiently substantial to amount to a charge of professional misconduct; or

“(b) The facts alleged in the complaint would, if proved, constitute disgraceful conduct in a professional respect and should be transmitted to the Secretary of the Council to be dealt with by the Council. 35

“(3) Nothing in this section shall limit or restrict the powers conferred on the Disciplinary Committee by sections 43 to 50 of this Act.” 40

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**10. Complaints to the Council against medical practitioners**—The principal Act is hereby further amended by repealing section 55, and substituting the following section:

5 “55. (1) Except as otherwise provided by rules made under section 12 of this Act, and without limiting the provisions of section 42A of this Act, any person (including any person in the service of the Crown acting in his official capacity) who desires to make a complaint to the Council in respect of the conduct of a registered medical practitioner or a person  
10 who is conditionally registered may make that complaint to the Secretary to the Council. Every such complaint (not being a complaint made by a Court) shall be in writing.

“ (2) Where the Secretary to the Council has received a complaint under subsection (1) of this section, he shall notify  
15 it to the Convener of the Penal Cases Committee, who may—

“ (a) Require it to be supported by such statutory declarations as he may specify; or

“ (b) Direct the Secretary to the Council to transmit it to the Secretary of the Disciplinary Committee to be dealt with as if it were a complaint alleging  
20 professional misconduct; or

“ (c) Decide that it discloses no case to answer; or

“ (d) Forthwith investigate it in accordance with section 56 of this Act.”

25 **11. Penal Cases Committee to investigate complaints**—

(1) Section 56 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

30 “ (1) Except where the Convener of the Penal Cases Committee directs a complaint to be transmitted to the Secretary of the Disciplinary Committee or decides that a complaint discloses no case to answer, the Convener shall, on being notified of the complaint under section 55 of this Act, and on receipt of any statutory declarations that he may have  
35 required, cause the Penal Cases Committee to investigate the complaint and decide whether or not any further action should be taken in respect of it.”

(2) The said section 56 is hereby further amended by omitting from subsection (3) the words “the person concerned has been guilty of disgraceful conduct in a professional  
40 respect”, and substituting the words “the complaint should be inquired into by the Council”.

(3) The said section 56 is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) Where at the conclusion of any such investigation the majority of the Penal Cases Committee are of the opinion that the complaint should not be inquired into by the Council but should be dealt with by the Disciplinary Committee, the Penal Cases Committee shall frame an appropriate charge and refer it to the Disciplinary Committee to be dealt with under section 43 of this Act.”

(4) The said section 56 is hereby further amended by inserting, after subsection (6), the following subsection:

“(6A) Notwithstanding anything in subsections (1) to (6) of this section, if any member of the Penal Cases Committee has reason to believe that a registered medical practitioner, or a person who is conditionally registered, may by any act or omission have been guilty of disgraceful conduct in a professional respect, that Committee may, on the matter being reported to it by the member (whether formally or informally), investigate the matter of its own volition. On any matter being reported under this subsection, subsections (2) to (6) of this section, with any necessary modifications, shall apply as if the report were a complaint notified to the Committee under section 55 of this Act.”

**12. Disciplinary powers of Council—**(1) Section 58 of the principal Act is hereby amended by inserting, after subsection (10), the following subsection:

“(10A) Notwithstanding anything in subsections (1) to (10) of this section, if the Council after due inquiry under this section into any complaint against any person considers that he is not guilty of disgraceful conduct in a professional respect but is guilty of professional misconduct, it may exercise in respect of him all or any of the powers which the Disciplinary Committee is authorised to exercise in respect of a person whom it finds guilty of professional misconduct.”

(2) The said section 58 is hereby further amended by inserting, after the words “subsection (2)” in paragraph (b) of subsection (11), the words “or subsection (10A)”.

(3) The said section 58 is hereby further amended by repealing subsections (15), (17), and (18).

**13. Regulations**—Section 75 of the principal Act is hereby amended by repealing paragraph (c) and substituting the following paragraph:

“(c) Prescribing the fees payable in respect of—

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“(i) Applications under this Act:

“(ii) Conditional registration, registration as a medical practitioner, temporary registration, and probationary registration:

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“(iii) The restoration of names after their removal from the register:

“(iv) Any other alteration or addition to the register:

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“(v) The issue of certificates of registration, provisional certificates, annual practising certificates, and any other certificate under this Act:

“(vi) Copies of any such certificates:

“(vii) Inspections of the register:

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“(viii) The supply by the Council of documents to medical practitioners for the purpose of enabling them to seek registration as medical practitioners outside New Zealand:”.

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## SCHEDULES

Section 5 (3) (a) FIRST SCHEDULE

## NEW SECOND SCHEDULE TO PRINCIPAL ACT

Section 15 (1) (c) "SECOND SCHEDULE

## "POST-GRADUATE QUALIFICATIONS FOR CONDITIONAL REGISTRATION

First Column Qualification	Second Column Institution by Which Qualification was Granted
1. Fellowship .....	Royal College of Surgeons of England.
2. Fellowship .....	Faculty of Anaesthetists, Royal College of Surgeons of England.
3. Fellowship .....	Royal College of Surgeons of Edinburgh.
4. Fellowship .....	Royal College of Surgeons of Ireland.
5. Fellowship .....	Royal Australasian College of Surgeons.
6. Fellowship .....	Faculty of Anaesthetists, Royal Australasian College of Surgeons.
7. Surgical Fellowship .....	Royal College of Physicians and Surgeons of Glasgow.
8. ( <i>Fellowship</i> ) <u>Surgical Fellowship</u> .....	Royal College of <u>Physicians and Surgeons of Canada.</u>
9. Membership or Fellowship .....	Royal College of Obstetricians and Gynaecologists.
10. Master of Surgery in Orthopaedics	University of Liverpool.
11. <u>Physician Fellowship</u> .....	Royal College of Physicians and Surgeons of Glasgow.
12. Membership or Fellowship .....	Royal College of Physicians of London.
13. Membership or Fellowship .....	Royal College of Physicians of Edinburgh.
14. Membership or Fellowship .....	Royal College of Physicians of Ireland.
15. Membership or Fellowship .....	Royal Australasian College of Physicians.
16. ( <i>Membership or</i> ) <u>Physician Fellowship</u> .....	Royal College of Physicians <u>and Surgeons of Canada.</u>

SECOND SCHEDULE Section 5 (3) (b)

NEW THIRD SCHEDULE TO PRINCIPAL ACT

"THIRD SCHEDULE Section 15 (1) (d)

"OVERSEAS QUALIFICATIONS FOR CONDITIONAL REGISTRATION

First Column Qualification	Second Column University or Institution
COMMONWEALTH OF AUSTRALIA	
1. Bachelor of Medicine and Bachelor of Surgery	University of New South Wales.
2. Bachelor of Medicine and Bachelor of Surgery	University of Sydney.
3. Bachelor of Medicine and Bachelor of Surgery	University of Queensland.
4. Bachelor of Medicine and Bachelor of Surgery	University of Adelaide.
5. Bachelor of Medicine and Bachelor of Surgery	University of Melbourne.
6. Bachelor of Medicine and Bachelor of Surgery	Monash University.
7. Bachelor of Medicine and Bachelor of Surgery	University of Tasmania.
8. Bachelor of Medicine and Bachelor of Surgery	University of Western Australia.
CANADA	
9. Doctor of Medicine .....	University of Alberta.
10. Doctor of Medicine .....	University of British Columbia.
11. Doctor of Medicine, Master of Surgery	Dalhousie University.
12. Doctor of Medicine .....	Dalhousie University.
13. Doctor of Medicine, Master of Surgery	Laval University.
14. Doctor of Medicine, Master of Surgery	University of Manitoba.
15. Doctor of Medicine .....	University of Manitoba.
16. Doctor of Medicine .....	University of Montreal.
17. Doctor of Medicine, Master of Surgery	McGill University.
18. Doctor of Medicine .....	University of Ottawa.
19. Doctor of Medicine, Master of Surgery	Queen's University.
20. Doctor of Medicine .....	University of Saskatchewan.
21. Doctor of Medicine .....	University of Toronto.
22. Doctor of Medicine .....	University of Western Ontario.

SECOND SCHEDULE—*continued*NEW THIRD SCHEDULE TO PRINCIPAL ACT—*continued*“THIRD SCHEDULE—*continued*”“OVERSEAS QUALIFICATIONS FOR CONDITIONAL REGISTRATION—*continued*”

First Column Qualification	Second Column University or Institution
REPUBLIC OF SOUTH AFRICA	
23. Bachelor of Medicine and Bachelor of Surgery	University of Cape Town.
24. Bachelor of Medicine and Bachelor of Surgery	University of Natal.
25. Bachelor of Medicine and Bachelor of Surgery	University of Pretoria.
26. Bachelor of Medicine and Bachelor of Surgery	University of Stellenbosch.
27. Bachelor of Medicine and Bachelor of Surgery	University of the Witwatersrand.
HONG KONG	
28. Bachelor of Medicine and Bachelor of Surgery	University of Hong Kong.
REPUBLIC OF SINGAPORE	
29. Bachelor of Medicine and Bachelor of Surgery	University of Singapore*.
CEYLON	
30. Bachelor of Medicine and Bachelor of Surgery	University of Ceylon.
MALTA	
31. Doctor of Medicine .....	.....   Royal University of Malta.”

\*NOTE: This item includes the degrees of Bachelor of Medicine and Bachelor of Surgery conferred by the University of Malaya up to and including the year 1961.