

Medical Practitioners (Foreign Qualified Medical Practitioners) Amendment Bill

Member's Bill

Explanatory note

This bill makes amendments to the Medical Practitioners Act 1995 to ensure that foreign qualified medical practitioners who ought to be allowed to practise medicine in New Zealand, are registered as medical practitioners in New Zealand and obtain the necessary practising certificates. Too many foreign qualified medical practitioners are not being permitted to practise in this country. This is unfair to those involved, and a waste of a valuable resource to the people of New Zealand.

Clause 2 provides that the bill will come into force on 1 January 2001.

Clause 4 adds five new sections to Part III of the Medical Practitioners Act concerning registration of medical practitioners. Presently, the Act leaves a large amount of discretion with the Medical Council in terms of the registration of medical practitioners and the designation of "approved institutions" that are relevant in that regard. The new provisions will remove some of the discretion and change some of the requirements so far as medical practitioners who have already been registered overseas are concerned.

The first of the new sections, *section 50A*, makes relevant sections of the Act concerning registration of medical practitioners subject to new sections 50B, 50C, and 50D. *New section 50B* imposes an obligation on the Medical Council to register, in New Zealand, medical practitioners who produce evidence to satisfy the Council that they have been registered, and have practised, as medical practitioners in another country, and who satisfy a number of other requirements relating to their competence to practise medicine in New Zealand. *New section 50C* sets out the requirements in relation

to competence to practise medicine in New Zealand. Competence will be determined by the New Zealand Qualifications Authority. It may, by notice in the *Gazette*, specify those countries where medical registration and practice will qualify for New Zealand purposes without further training, examination, and experience, and those institutions (and qualifications) in other countries where medical registration and practice may qualify for New Zealand purposes subject to such additional requirements as the Authority considers necessary in individual cases to ensure competence in New Zealand. The Authority must, in appropriate consultation, assess the competence of foreign qualified medical practitioners and determine the category of registration—probationary, general, or vocational—in which the person is competent to practise. It may determine the additional qualifications required by way of education, training and experience, with particular emphasis on short-term bridging programmes to assist applicants to make the transition from foreign medical practice to New Zealand medical practice. Ministerial directions may be given to the Council in relation to these requirements, including employment and supervisory requirements. Consequential amendments are also made to certain other requirements in the Act relating to registration. *New section 50D* determines the type of registration of foreign qualified medical practitioners. *New section 50E* provides that persons in need of additional education, training, and experience are entitled to financial assistance under the Student Loan Scheme Act 1992.

Clause 5 amends section 52 of the Act so that annual practising certificates may include certificates or equivalent documents issued by or on behalf of overseas registering authorities.

Clauses 6 to 9 effect consequential amendments to several other sections relating, respectively, to review of the competence of medical practitioners, competence programmes, recertification programmes, and quality assurance activities. The effect in each case is to provide that relevant decisions must not be made by reason only of the fact that a medical practitioner is a person registered and practising medicine by virtue of the new sections 50B and 50C.

Clause 10 amends the regulation-making powers in section 140 of the principal Act. The powers, to be exercised after consultation with the Council, will be extended to regulations, as may be required, making further provisions, consistent with new section 50C, in relation to the qualifications, education, training,

examination, and experience of foreign qualified medical practitioners for New Zealand purposes, and providing for assistance by the Council with employment and supervision in relation to those requirements.

Clause 11 amends the Student Loan Scheme Act 1992 to ensure that it applies as provided in the new section 50E.

Hon Ken Shirley

Medical Practitioners (Foreign Qualified Medical Practitioners) Amendment Bill

Member's Bill

Contents

1	Title		50D	Type of registration of foreign qualified medical practitioner
2	Commencement			
3	Purpose		50E	Financial assistance
4	New heading and sections inserted		5	Restrictions on issue of annual practising certificate
	<i>Registration of foreign qualified medical practitioners</i>		6	Review of practitioner's competence
50A	Applications of certain sections to foreign qualified medical practitioners		7	Competence programmes
50B	Foreign qualified medical practitioners to be registered		8	Recertification programmes
50C	Practising requirements for foreign qualified medical practitioners		9	Interpretation
			10	Regulations
			11	Amendment to Student Loan Scheme Act 1992

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Medical Practitioners (Foreign Qualified Medical Practitioners) Amendment Act **2000**.
- (2) In this Act the Medical Practitioners Act 1995¹ is called "the principal Act".
- ¹ 1995 No 95

2 Commencement

This Act comes into force on 1 January 2001.

3 Purpose

The purpose of this Act is to ensure that appropriately qualified foreign medical practitioners are able to be registered and to practise as medical practitioners in New Zealand.

10

4 New heading and sections inserted

Part III of the principal Act is amended by adding the following heading and sections:

“Registration of foreign qualified medical practitioners

“50A Applications of certain sections to foreign qualified medical practitioners 5

Sections 4, 13, 14, 15, 16, 18(1), 19, 21(1)(b), 22, and 34(4), in their application to persons to whom **section 50B or 50C** applies, apply only to the extent provided in **section 50B and section 50C and section 50D.** 10

“50B Foreign qualified medical practitioners to be registered

“(1) The Council must register a person as a medical practitioner who makes application for registration and who—

“(a) produces evidence sufficient to satisfy the Council that the person has been registered, and has practised, as the New Zealand equivalent of a medical practitioner in another country, and such registration is not suspended and the name of the person has not been removed from the register other than at the request of the medical practitioner; and 15

“(b) has been determined in accordance with **section 50C** to be competent to practise as a medical practitioner in New Zealand; and 20

“(c) is ordinarily resident in New Zealand; and

“(d) intends to practise medicine in New Zealand; and 25

“(e) is not disqualified from registration by virtue of the requirements of paragraphs (a) to (e) of section 13; and

“(f) there is no reason to believe the person is not otherwise fit to practise as a medical practitioner.

“(2) For the purpose of **subsection (1)(b)**, a person is “ordinarily resident in New Zealand” if that person— 30

“(a) has his or her home in New Zealand; or

“(b) is residing in New Zealand with the intention of residing there indefinitely; or

“(c) having resided in New Zealand with the intention of establishing his or her home there, or with the intention of residing in New Zealand indefinitely, he or she is outside New Zealand but has an intention to return to 35

establish his or her home there or to reside in New Zealand indefinitely.

“50C Practising requirements for foreign qualified medical practitioners

- “(1) A person to whom **section 50B** applies is competent to practise as a medical practitioner in New Zealand if the person has been determined by the New Zealand Qualifications Authority, **the Authority**, established by Part XX of the Education Act 1989 to be qualified to practise as such in accordance with this section.
- “(2) The Authority may, by notice in the *Gazette*,—
- “(a) specify countries, the registration and practice in which as the New Zealand equivalent of a medical practitioner qualifies the person concerned for practise as a medical practitioner in New Zealand without further training, examination, or experience;
- “(b) specify institutions in countries other than those specified under **paragraph (a)**, appropriate medical qualifications from which (as specified by the Authority), together with registration and practice as the New Zealand equivalent of a medical practitioner in any such country, may qualify the person concerned for practice as a medical practitioner in New Zealand subject to such additional training, examination, and experience as the Authority considers necessary in any individual case to ensure that the person is competent to practise as a medical practitioner.
- “(3) The Authority must, after consultation with the Council and such other persons or organisations, whether in New Zealand or overseas, as it considers appropriate, assess the competence of persons to whom **section 50B** applies who makes application to register and practise as medical practitioners in New Zealand and who—
- “(a) are persons to whom **subsection (2)(b)** applies; or
- “(b) are not persons to whom **subsection (2)** applies.
- “(4) The Authority must, in making the assessments to which **subsection (3)** refers, determine whether the person is competent to practise as a medical practitioner in New Zealand in 1 of the following categories of registration:

- “(a) holding probationary registration, subject to such additional education, training, and experience, including such employment and supervisory requirements, as the Authority considers necessary:
- “(b) holding probationary registration free, except to such extent as the Authority specifies, of special employment and supervisory requirements: 5
- “(c) holding general registration, where the Authority is satisfied that the practitioner holds qualifications that it considers equivalent or sufficiently equivalent to any of those specified in section 19 for the practitioner to be granted general registration: 10
- “(d) holding vocational registration in respect of a particular branch or sub-branch of medicine, where the Authority is satisfied that the practitioner has such additional education, training, and experience as to qualify that practitioner for such registration. 15
- “(5) The Authority may determine the additional qualifications by way of education, training, and experience that persons to whom **section 50B** applies who wish to practise in New Zealand require in order to make the transition from foreign medical practice to practice in New Zealand in any of the categories of registration specified in **subsection (4)**. 20
- “(6) The qualifications referred to in **subsection (5)** should comprise supervised short-term bridging programmes, unless the Authority determines that additional education, training, and experience is necessary in any particular case. 25
- “(7) The Minister may give directions to the Council from time to time in relation to the assistance required from the Council in respect of additional education, training, and experience requirements, including employment and supervisory requirements and short-term bridging programmes. 30
- “(8) The Council must comply with directions given to it by the Minister under **subsection (7)**. 35
- “(9) A certificate of an institution to which **subsection (2)(b)** applies is, when certified by the Authority, subject to section 14(2) and (3). 35
- “(10) The Council may apply section 18(1) (cancellation of probationary registration) in respect of a medical practitioner registered under **section 50B** only if the Authority— 40

- “(a) considers that the requirements of probationary registration have not been satisfied by the practitioner; or
“(b) otherwise concurs in the Council’s proposed action.
- “(11) The Authority may recommend to the Minister that additional branches or sub-branches of medicine be designated under section 21(1). 5
- “50D Type of registration of foreign qualified medical practitioner**
- “(1) Every person to whom **section 50B** applies who satisfies the requirements for registration specified in that section must be granted registration in one of the categories of registration specified in **section 50C(4)**. 10
- “(2) Every person granted probationary registration as provided in **subsection (1)** is entitled to general registration in accordance with section 19. 15
- “(3) Every person who holds general registration, whether as provided in **subsection (1)** or as provided in **subsection (2)**, in accordance with section 19, is entitled to vocational registration in accordance with section 22.
- “50E Financial assistance** 20
Persons to whom **section 50B or section 50C** applies are entitled to financial assistance under the Student Loan Scheme Act 1992 in respect of the costs of the additional education, training and experience to which those provisions refer.”
- 5 Restrictions on issue of annual practising certificate** 25
Section 52 of the principal Act is amended by adding the following subsection:
- “(3) The reference in subsection (1)(d) to an “annual practising certificate” relates, with respect to persons to whom **section 50B or section 50C** applies, to the annual practising certificate or equivalent document (if any) issued by or on behalf of an overseas registering authority for purposes similar to the annual practising certificate in New Zealand.” 30
- 6 Review of practitioner’s competence**
Section 60 of the principal Act is amended by adding the following subsection: 35

- “(3) No review is to be conducted under subsection (1) by reason only of the fact that a practitioner is a person registered and practising medicine by virtue of **sections 50B and 50C.**”
- 7 Competence programmes** 5
 Section 62 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) Despite subsection (2), no competence programme may be applied in respect of a medical practitioner, or class of medical practitioners, by reason only of the fact that every such practitioner is a person registered and practising medicine by virtue of **sections 50B and 50C.**” 10
- 8 Recertification programmes**
 Section 63 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) Despite subsection (2), no recertification programme may be applied in respect of a medical practitioner, or class of medical practitioners, by reason only of the fact that every such practitioner is a person registered and practising medicine by virtue of **sections 50B and 50C.**” 15
- 9 Interpretation** 20
 Section 66 of the principal Act is amended by adding the following subsection:
- “(3) For the avoidance of doubt, it is declared that an assessment or evaluation under the definition of **quality assurance activity** in subsection (1) is not carried out for the purpose of improving the practices or competence of a medical practitioner if it is carried out by reason only of the fact that the medical practitioner is a person registered and practising medicine by virtue of **sections 50B and 50C.**” 25
- 10 Regulations** 30
 Section 140 of the principal Act is amended by inserting, after paragraph (a), the following paragraphs:
- “(aa) making further provision, consistent with **section 50C**, in relation to the qualifications, education, training, examination, and experience, or any aspect thereof, that **section 50B or** 35
 apply with respect to persons to whom **section 50B or**

section 50C applies who wish to be registered to practice medicine, or any branch or sub-branch of medicine, in New Zealand:

“(ab) making provision for assistance by the Council with the employment or supervision of persons referred to in **paragraph (aa)** in relation to the requirements specified in that paragraph.” 5

11 Amendment to Student Loan Scheme Act 1992

The definition of **Student loan scheme** in section 2 of the Student Loan Scheme Act 1992 is amended by inserting, after the word “students”, the words “and to persons referred to in **section 50E** of the Medical Practitioners Act 1995.” 10