

NORTHERN TERRITORY OF AUSTRALIA

MEDICAL PRACTITIONERS REGISTRATION AMENDMENT BILL 1993

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Medical Practitioners Registration Act*

Be it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART 1 - GENERAL

1. SHORT TITLE

This Act may be cited as the *Medical Practitioners Registration Amendment Act 1993*.

2. PRINCIPAL ACT

The *Medical Practitioners Registration Act* is in this Act referred to as the Principal Act.

3. COMMENCEMENT

This Act shall come into operation or shall be deemed to have come into operation on 1 March 1993.

4. DEFINITIONS

Section 5 of the Principal Act is amended -

- (a) by inserting before the definition of "Assessor" the following:

"'approved' means approved by the Board;";

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- (b) by inserting after the definition of "Assessor" the following:

"'Australian Medical Council' means the body by the name of the Australian Medical Council Incorporated, being an association incorporated in the Australian Capital Territory;"

- (c) by inserting after the definition of "Chief Medical Officer" the following:

"'determined fee' means the relevant fee determined under section 19A;"

- (d) by inserting after the definition of "Judge" the following:

"'licence' means a licence to practise medicine issued, in the approved form, to a person who is registered under this Act;" and

- (e) by omitting the definition of "registered medical practitioner" and substituting the following:

"'register' means the register kept under this Act in accordance with section 29B;

'registered medical practitioner' means a person registered and entitled under this Act to practise medicine in the Territory;"

5. NEW SECTION

The Principal Act is amended by inserting after section 18 the following:

"18A. DELEGATION BY BOARD

"(1) The Board may, by instrument in writing, delegate to a person any of the Board's powers and functions under this Act, other than this power of delegation.

"(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Board.

"(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Board."

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6. DETERMINATION OF FEES

Section 19A of the Principal Act is amended by adding at the end the following:

"(2) The Board may, in a particular case, waive the whole or part of a determined fee."

7. REPEAL AND SUBSTITUTION

The Principal Act is amended by omitting Part III and substituting the following:

"PART III - QUALIFICATIONS AND REGISTRATION

"20. APPLICATION FOR REGISTRATION

"A person may, in accordance with this Part, apply to the Board for registration in a category of general registration or conditional registration.

"21. QUALIFICATIONS FOR GENERAL REGISTRATION

"A person who -

- (a) before 1 January 1993 held the degrees of Bachelor of Medicine and Bachelor of Surgery or equivalent degrees of a medical school of a university in Australia or New Zealand;
- (b) graduated in a course of study approved by the Australian Medical Council from a medical school so approved; or
- (c) has successfully completed the examinations conducted by the Australian Medical Council,

is qualified for general registration.

"22. ELIGIBILITY FOR GENERAL REGISTRATION

"A person who -

- (a) is qualified in accordance with section 21 for general registration;
- (b) has completed a period of internship or supervised training as approved; and
- (c) whose registration or entitlement to practise medicine is not subject to conditions or limitations imposed by a registering authority in a State or another Territory of the Commonwealth or in another country,

may apply under section 24 for general registration.

"23. ELIGIBILITY FOR CONDITIONAL REGISTRATION

"(1) A person who is not eligible under section 22 to apply for general registration may apply under section 24 for conditional registration.

"(2) The Board may, in considering an application by a person for conditional registration, take into account the circumstances of the applicant, including the following:

- (a) the person has certain qualifications obtained outside Australia or New Zealand and is seeking to undertake postgraduate training;
- (b) the person has qualifications for general registration but eligibility for registration is incomplete in so far as the person has not undertaken a period of internship or supervised training as required by the Board;
- (c) the person is a candidate for the examination conducted by the Australian Medical Council and is seeking the Board's approval to undertake supervised training;
- (d) the person is applying for a teaching or research position and the Board is satisfied that his or her qualifications and experience are appropriate for registration;
- (e) the person is seeking registration where the Board is satisfied that it is in the public interest to grant registration or that the person is suitable to meet a community need;
- (f) the person has specialist qualifications and is seeking registration -
 - (i) to practise in the speciality where the qualification is assessed to the satisfaction of the relevant specialist college and certified by the Australian Medical Council as comparable to the standard required of a specialist trained in Australia; or
 - (ii) to undergo further specialist training or examination by the relevant specialist college before being finally assessed by that college;
- (g) the person has had conditions or limitations placed on his or her registration or licence to practise medicine elsewhere for disciplinary, health or other reasons.

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"24. APPLICATION FOR REGISTRATION

"(1) An eligible person may, in an approved form accompanied by the determined fee, apply to the Board for registration in the Territory in the category of general registration or conditional registration.

"(2) An application under subsection (1) shall be accompanied by a declaration that -

- (a) the person's registration or entitlement to practise in a State or another Territory of the Commonwealth or in another country is not cancelled or suspended as a result of disciplinary action;
- (b) the person is not suffering from a mental or physical disability that would prevent him or her from practising medicine efficiently;
- (c) there are no complaints outstanding or undertakings given in another jurisdiction, whether in a State or another Territory of the Commonwealth or in another country, relating to the practice of medicine, that constitute an impediment to the person's registration; and
- (d) sets out the conditions or limitations, if any, imposed on a person's registration or entitlement to practise medicine in another jurisdiction, whether in a State or another Territory of the Commonwealth or in another country.

"(3) An applicant referred to in subsection (1) shall appear in person before a nominee appointed by the Board unless exempted by the Board and shall satisfy the Board as to the following matters:

- (a) his or her identity;
- (b) his or her qualifications and experience;
- (c) that he or she is of good fame and character;
- (d) that he or she has an adequate command of the English language;
- (e) that he or she resides or intends to reside in the Territory.

"25. GRANT OR REFUSAL OF APPLICATION UNDER SECTION 24

"(1) The Board may, if it is satisfied with an application under section 24, register the applicant.

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"(2) Registration under subsection (1) may be subject to such conditions as the Board thinks fit.

"(3) Where the Board refuses to register an applicant under subsection (1), it shall, if requested by the applicant, give notice in writing of the reasons for its refusal.

"(4) Where the Board gives its reasons under subsection (3), the applicant whose registration is refused may, within 21 days after the date of the notice, appeal to the Tribunal against the refusal.

"(5) An appeal under subsection (4) shall be in the nature of a re-hearing.

"26. CHAIRMAN OR REGISTRAR MAY GRANT INTERIM REGISTRATION

"(1) Where the Chairman or the Registrar is satisfied that an application under section 24 will be granted by the Board, the Chairman or Registrar may, on payment of the determined fee, grant to the applicant interim registration in a category of general registration or conditional registration.

"(2) Interim registration granted under subsection (1) may be subject to such conditions as the Chairman or Registrar thinks fit and the conditions, if any, shall be recorded in the register and on the certificate of interim registration.

"(3) Interim registration of an applicant under subsection (1) remains in force until the Board determines the application under section 25.

"(4) The registration by the Board of a person who has been granted interim registration under this section shall have effect from the commencement of the interim registration.

"(5) A person who has been granted interim registration under subsection (1) is entitled to practise medicine in the Territory while the interim registration is in force without holding a current licence.

"27. ISSUE OF REGISTRATION CERTIFICATE, LICENCE, &c.

"(1) The Registrar shall issue a registration certificate in the approved form to a person who has been granted registration under section 25 or 26.

"(2) A person may, within one month after the grant of registration to him or her, apply, in the approved form accompanied by the determined fee, to the Registrar for a licence and the Registrar shall issue a licence.

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"(3) Where a person fails to apply for a licence within the period referred to in subsection (2), the Registrar shall cancel the person's registration.

"(4) Subject to sections 26(5) and 29(3), a person shall not practise medicine in the Territory unless the person holds a current licence.

"28. EXPIRY, &c., OF LICENCES

"(1) A licence expires -

(a) on the date specified in the licence; or

(b) if no date is so specified, on 30 September next after the issue of the licence.

"(2) Where a person's registration has been cancelled in pursuance of section 29E or 29F, or of Part IV, the person's licence is, by force of this section, cancelled.

"(3) Where the entitlement to practise medicine in the Territory of a registered medical practitioner is suspended in pursuance of section 29F or of Part IV, the person's licence is, by force of this section, cancelled.

"(4) A person referred to in subsection (2) or (3) shall, without delay, either personally or by post, deliver his or her licence to the Registrar.

Penalty: \$200.

"(5) Where the entitlement to practise medicine in the Territory of a registered medical practitioner referred to in subsection (3) or section 31A(5) is restored -

(a) before the date on which the licence that was cancelled under subsection (2) or (3) would have expired, the Registrar shall issue a replacement licence; or

(b) after the date on which such a licence would have expired, the Registrar shall, on application in the approved form accompanied by the determined fee, issue a licence.

"(6) Where a person does not make an application under subsection (5)(b) accompanied by the determined fee for the issue of a replacement licence within one month the Registrar shall cancel the person's registration.

"29. RENEWAL OF LICENCES, &c.

"(1) A registered medical practitioner may apply for the renewal of a licence before the date of its expiry.

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"(2) An application under subsection (1) shall be in an approved form accompanied by the determined fee.

"(3) Where a registered medical practitioner fails to apply within one month after the date of expiry for renewal of his or her licence under subsection (1), the Registrar shall cancel the person's registration.

"(4) A person whose licence has expired, whether or not his or her registration has been cancelled, may, before the expiration of 12 months after the date of expiry of the licence, apply in the approved form accompanied by the determined fee for restoration of the expired licence or registration.

"(5) Where the Registrar restores a licence or registration on application made under subsection (4), the person shall be deemed to have continually held a licence and to have been continually registered as a medical practitioner.

"29A. APPLICATION FOR REGISTRATION FOLLOWING CANCELLATION, &c.

"(1) A person whose registration is cancelled for any reason under this Act, other than a person to whom section 31A(4) applies, may apply for general or conditional registration under section 24 if he or she is eligible under section 22 or 23.

"(2) Where the person's registration was cancelled under section 29E or following disciplinary action under Part IV, an application under subsection (1) shall set out the change of circumstances in respect of which the application is made and the reasons that the applicant considers sufficient for his or her registration to be restored.

"29B. REGISTER

"(1) The Registrar shall keep and maintain a register of medical practitioners.

"(2) The register shall be in an approved form and shall contain particulars in relation to approved matters, including registration, cancellation and suspension of registration, licences, complaints, investigations and inquiries.

"(3) The -

- (a) registration of a person as a registered medical practitioner in the Territory;
- (b) cancellation or restoration of a person's registration; and

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- (c) suspension of a person's entitlement to practise medicine in the Territory,

are constituted by the entry in the approved manner in the register of the person's name, approved particulars and relevant information.

"(4) A person may, during normal business hours, inspect free of charge the register and may, on payment of the determined fee, obtain a copy of or extract from the register.

"29C. REGISTER MAY BE ALTERED

A registered medical practitioner, who obtains or already possesses a higher degree or a qualification other than the qualification in respect of which he or she is registered, may apply to have the higher degree or additional qualification inserted in the register, without payment of a fee, and the Registrar shall make the appropriate entry.

"29D. CHANGES, &c., TO BE NOTIFIED AND REGISTER ALTERED

"(1) A registered medical practitioner who changes his or her address shall, without delay, give notice in writing of the new address to the Registrar.

"(2) The Registrar, within the meaning of the *Registration of Births, Deaths and Marriages Act*, who registers the death of a registered medical practitioner shall, without delay, give notice in writing of the death to the Registrar.

"(3) The Registrar may make such alterations and amendments in the register as are necessary.

"29E. REGISTERED MEDICAL PRACTITIONER SHALL OBSERVE CONDITIONS OF REGISTRATION

"(1) Where a registered medical practitioner does not observe the conditions imposed on his or her registration, the Board may, by notice in writing, cancel the registration and the practitioner then ceases to be a registered medical practitioner.

"(2) A person may, within 21 days after the date of the notice of cancellation of his or her registration under subsection (1), appeal to the Tribunal against the cancellation.

"29F. EFFECT OF CANCELLATION IN A STATE OR ANOTHER TERRITORY

"(1) Where the Board ascertains that a registered medical practitioner's registration or entitlement to practise in a State or another Territory of the Commonwealth -

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- (a) has been cancelled or suspended; or
- (b) has been subjected to a condition,

on disciplinary grounds or as a result of or in anticipation of criminal, civil or disciplinary proceedings, the registered medical practitioner's registration in the Territory is affected in the same way and the Board shall, without delay, give notice in writing to the medical practitioner.

"(2) The Board may, in relation to a cancellation, suspension or imposition of a condition referred to in subsection (1), take such action as it thinks fit including revoking the cancellation, suspension or condition."

PART 2 - TRANSITIONAL

8. INTERPRETATION

- (1) In this Part -

"former Act" means the Principal Act as in force immediately before the commencement of this Act;

"Register (Conditional)" means the register by that name kept under the former Act;

"Register (Full)" means the register by that name kept under the former Act;

"Register (Provisional Conditional)" means the register by that name kept under the former Act;

"Register (Provisional Full)" means the register by that name kept under the former Act.

(2) The registers maintained immediately before the commencement of this Act shall, on the commencement, become part of the register under this Act.

9. EFFECT OF REGISTRATION UNDER FORMER ACT

(1) A person whose name was, at the commencement of this Act, entered in the Register (Full) and who, at the commencement, is qualified for general registration under section 21, shall continue to be a registered medical practitioner having general registration under this Act.

(2) A person whose name was, at the commencement of this Act, entered in the Register (Full) but who, at the commencement, is not qualified for general registration under section 21 shall, if the person satisfied the Board that he or she -

- (a) was living in Australia on 31 January 1992; and

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(b) practised medicine without his or her registration or entitlement to practise being subject to conditions or limitations imposed by the registering authority in the State or other Territory of the Commonwealth where he or she practised -

(i) for not less than 6 months; and

(ii) on not less than 4 days in each of those months,

during the period from 1 February 1992 to 31 October 1992,

continue to be a registered medical practitioner having general registration under this Act.

(3) A person -

(a) who was not living and practising medicine in Australia on 31 January 1992; and

(b) whose name was, at the commencement of this Act, entered in the Register (Full),

and who, at the commencement, is not qualified for general registration under section 21, shall, if the person satisfied the Board that he or she practised medicine without his or her registration or entitlement to practise being subject to conditions or limitations imposed by the registering authority in the State or other Territory of the Commonwealth where he or she practised for 3 of the 6 years before 31 January 1992 or for a total of 6 years before 31 January 1992, continue to be a registered medical practitioner having general registration under this Act.

(4) Where a person whose name was, at the commencement of this Act, entered in the Register (Full), and the person is not eligible under subsection (1), (2) or (3) to continue to be a registered medical practitioner having general registration under this Act, the Board may grant to the person conditional registration under this Act or may cancel the person's registration.

(5) A person whose name was, at the commencement of this Act, entered in the Register (Conditional) continues to be a registered medical practitioner having conditional registration under this Act subject to conditions similar to those imposed under the former Act or as the Board thinks fit.

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(6) A person whose name was, at the commencement of this Act, entered in the Register (Provisional Conditional) continues to be a registered medical practitioner having interim registration under this Act subject to conditions similar to those imposed under the former Act or as the Chairman or Registrar thinks fit.

(7) A person whose name was, at the commencement of this Act, entered in the Register (Provisional Full) and, where the Chairman or Registrar is satisfied that the person will be granted registration in the category of general registration under section 25, continues, while the interim registration is in force, to be a registered medical practitioner having interim registration under this Act in the category of general registration.

(8) A person whose name was, at the commencement of this Act, entered in the Register (Provisional Full), but in relation to whom the Chairman or Registrar is satisfied that the person will not be granted registration in the category of general registration under section 25, continues, while the interim registration is in force, to be a registered medical practitioner having interim registration under this Act in the category of conditional registration, subject to such conditions as the Chairman or Registrar thinks fit.

(9) A person whose name was, at the commencement of this Act, entered in the Register (Full), but whose entitlement to practise is suspended at the commencement, shall, subject to subsections (1), (2), (3) and (4), continue to be a registered medical practitioner having general or conditional registration under this Act, and his or her entitlement to practise shall remain suspended as if the suspension was imposed under this Act.

10. REPLACEMENT CERTIFICATES OF REGISTRATION

(1) The Registrar shall, as soon as practicable, send -

(a) to a person referred to in section 9(1), (2) or (3) a certificate of registration under this Act; or

(b) to a person referred to in section 9(4), (5), (6), (7) or (8) the relevant conditional or interim certificate of registration as the Board, Chairman or Registrar thinks fit.

(2) A practising certificate issued under the former Act to a person who has general registration under this Act remains in effect as if it were a licence issued under this Act.

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(3) The Registrar shall, after the commencement of this Act, issue a licence to a person who holds conditional registration by virtue of section 9(5).

(4) A person who is granted conditional registration in pursuance of section 9(4) shall, without delay, personally or by post, return the practising certificate issued under the former Act to the Registrar and the Registrar shall issue him or her with a licence under this Act.

(5) A person whose registration is cancelled in pursuance of section 9(4), shall, without delay, personally or by post, return the practising certificate issued under the former Act to the Registrar.

11. FURTHER AMENDMENTS

The Principal Act is further amended as provided in the Schedule.

SCHEDULE

Section 11

Provision	Amendment	
	omit	substitute
Section 19A	"The Minister may"	"(1) The Minister may"
Section 31A(1)(b)	"sections 23E(3) and 24"	"Sections 25(4) and 29E(2)"
Section 31A(2)(a)	the whole paragraph	"(a) may dismiss the complaint and, if the medical practitioner's registration has been cancelled, direct the Registrar to restore the registration; or"
Section 31A(2)(b)(v)	"remove the name of the medical practitioner from the relevant register"	"cancel the medical practitioner's registration"
Section 31A(4)(a)	the whole paragraph	"(a) may cancel the medical practitioner's registration; and"

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Provision	Amendment	
	omit	substitute
Section 31A(5)	the whole subsection	"(5) Where a medical practitioner's registration has been cancelled pursuant to subsection (4), the Board may, on the medical practitioner paying the fine or giving the undertaking, restore the registration."
Section 31B(9)	"remove the name" "from the relevant register"	"cancel the registration"
Section 32(1)	"Any person whose name is removed from a register kept under this Act"	"A person whose registration is cancelled"
Section 34(1A)	the whole subsection	
Section 42AA	"sections 28(1) or (3), 29A(2) or (13)"	"sections 27(4) 28(4), 29D(1)"
Section 42(B)(1)	"a medical practitioner whose name is registered in the Register (full)"	"a registered medical practitioner"
	"prescribed"	"approved"
Section 42B(2)(b)	"in the Register (Full)"	
Section 43(c)	"registers"	"register"