

## **MEDICAL PRACTITIONERS (AMENDMENT) ACT.**

**New South Wales**



**ANNO VICESIMO PRIMO**

**ELIZABETHÆ II REGINÆ**

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**Act No. 52, 1972.**

An Act to vary the constitution of the New South Wales Medical Board; to make further provisions with respect to the registration of medical practitioners and the powers, authorities, duties and functions of the board, the investigating committee and the disciplinary tribunal; to establish a Register of Specialists for New South Wales and to provide for the registration of certain persons therein; for these and other purposes to amend the Medical Practitioners Act, 1938; and for purposes connected therewith. [Assented to, 17th October, 1972.]

**BE**

*Medical Practitioners (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 52, 1972 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Medical Practitioners Short title. (Amendment) Act, 1972".

**2.** (1) This section, sections 1 and 3, and section 4 Commence-  
(subsection (1) excepted), shall commence on the date of <sup>ment.</sup>  
assent to this Act.

(2) Sections 5 and 6 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 7 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than—

- (a) the day appointed and notified under subsection (2); and
- (b) the day appointed and notified under section 4 (6).

**3.** The Medical Practitioners Act, 1938, is in this Act <sup>Construction.</sup>  
referred to as the Principal Act.

**No. 52, 1972**Amendment  
of Act No.  
37, 1938.  
Sec. 5.(Constitu-  
tion of  
board.)**4. (1) The Principal Act is amended—**

(a) (i) by omitting section 5 (3) (d) (iii) and by inserting instead the following subparagraph :—

(iii) the New South Wales Universities Board;

(ii) by omitting section 5 (3) (d) (v) and by inserting instead the following subparagraph :—

(v) The Royal College of Obstetricians and Gynaecologists, New South Wales State Committee;

(b) by omitting section 5 (5).

(2) For the purposes only of the appointment of persons to be members of the board in pursuance of section 5 (3) (d) (iii) and (v) of the Principal Act, as amended by this section, and of any matters necessary for or incidental to that appointment, the provisions of subsection (1) shall commence on the date of assent to this Act.

(3) The persons so appointed shall assume their offices as members of the board on the appointed day.

(4) The persons so appointed shall, notwithstanding anything in section 5 (6) of the Principal Act, hold office as members of the board until the expiration of the terms of office of the other members of the board (except the member referred to in section 5 (3) (a) of the Principal Act) at the time when the firstmentioned members assume their offices as members of the board, but shall, if otherwise qualified, be eligible for re-appointment.

(5) The persons holding office as members of the board immediately before the appointed day in pursuance of section 5 (3) (d) (iii) and (v) of the Principal Act, as in force immediately before the date of assent to this Act, shall cease to hold office as members of the board on the appointed day.

(6)

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(6) Subsection (1) shall come into force for all purposes upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette. No. 52, 1972

(7) In this section—

“appointed day” means the day appointed and notified under subsection (6);

“the board” means the New South Wales Medical Board.

**5. (1) The Principal Act is further amended—**

Further  
amendment  
of Act No.  
37, 1938.

(a) (i) by omitting from section 2 the matter “14” Sec. 2.  
and by inserting instead the matter “13A”; (Division  
into Parts.)

(ii) by omitting from section 2 the matter “50”  
and by inserting instead the matter “50A”;

(b) (i) by omitting from section 3 (1) the word Sec. 3.  
“unless” and by inserting instead the words (Definitions.)  
“, except in so far as”;

(ii) by inserting next before the definition of  
“Member” in section 3 (1) the following new  
definitions :—

“Country” includes a State or other part of  
a country.

“Disciplinary tribunal” means the disciplinary tribunal constituted under section 28.

“Investigating committee” means the investigating committee constituted under section 27A.

(c)

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Sec. 5.

(Constitu-  
tion of  
board.)

- (c) (i) by inserting in section 5 (3) (d) (vii) after the word "The" the word "Royal";
- (ii) by inserting in section 5 (6) after the word "shall" where secondly occurring the words ", if otherwise qualified,";
- (iii) by omitting from section 5 (8) the word "prescribed" and by inserting instead the words "determined from time to time by the Governor";

Sec. 9.

(Casual  
vacancies.)

- (d) by inserting in section 9 (3) after the word "shall" where secondly occurring the words ", if otherwise qualified,";

Sec. 13.

(Secretary.)

- (e) by omitting section 13 (2) and by inserting instead the following subsection :—

(2) The secretary to the board may, if authorised, either generally or in any particular case or class of cases, by the board to do so, sign, on behalf of the board, any certificate which any person is entitled to receive from the board or any certificate or license granted or issued by the board.

New sec.  
13A.

- (f) by inserting next after section 13 the following new section :—

Inspectors  
and other  
officers.

13A. The Governor may from time to time, under and subject to the provisions of the Public Service Act, 1902, appoint inspectors and such other officers as he thinks fit for the purposes of this Act.

Sec. 14.  
(Protection  
of board  
and  
members  
and others  
from  
liability.)

- (g) by omitting section 14;

(h)

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(h) (i) by omitting from section 17 (1) (b) (i) the No. 52, 1972 words "the said" wherever occurring; Sec. 17.

(ii) by omitting from section 17 (1) (b) the Qualifications for words "the said subparagraph" and by future inserting instead the word "subparagraph"; registration.)

(iii) by omitting from section 17 (1) (b) the words "if he has served, for a period of twelve months or more or for periods amounting in the aggregate to twelve months or more, as a medical officer in one or more public hospitals or separate institutions, within the meaning of the Public Hospitals Act, 1929, as amended by subsequent Acts, in New South Wales or in any private hospital or other institution, approved by the board, in New South Wales";

(iv) by inserting in section 17 (1) (c) after the word "medicine" where firstly occurring the words "in some country";

(v) by omitting from section 17 (1) (d) (i) the words "part or";

(vi) by omitting from section 17 (1A) (c) the words "after consultation with or";

(vii) by omitting from section 17 (2) (b) the words "has reported to the Minister" and by inserting instead the words "is of the opinion";

(viii) by omitting from section 17 (2) (b) the words "has recommended" and by inserting instead the word "decides";

(ix) by omitting from section 17 (2) (b) the word "and" where lastly occurring;

(x) by omitting section 17 (2) (c);

(xi)

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- (xi) by omitting from section 17 (2A) (c) the words "has reported to the Minister" and by inserting instead the words "is of the opinion";
- (xii) by omitting from section 17 (2A) (c) the words "has recommended" and by inserting instead the word "decides";
- (xiii) by omitting from section 17 (2A) (c) the word "and" where lastly occurring;
- (xiv) by omitting section 17 (2A) (d);
- (xv) by omitting section 17 (3) and (4) and by inserting instead the following subsections:—

(3) Notwithstanding anything in this Part, a person shall not be entitled to be registered pursuant to this section unless—

- (a) the board is satisfied that he has, for a period of at least twelve months, or for periods amounting in the aggregate to at least twelve months, satisfactorily served as a medical officer—
  - (i) in one or more public hospitals or separate institutions within the meaning of the Public Hospitals Act, 1929; or
  - (ii) in one or more private hospitals or other institutions (whether in New South Wales or elsewhere) approved by the board,

and that he has, as such a medical officer, had satisfactory medical experience during a period of at least

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six months, or during periods No. 52, 1972 amounting in the aggregate to at least six months, and satisfactory surgical experience during a like period or periods; or

- (b) the board is satisfied that he—
  - (i) is unable, by reason of physical incapacity, to serve as a medical officer as referred to in paragraph (a); and
  - (ii) has, for a period of at least twelve months, or for periods amounting in the aggregate to at least twelve months, received special tuition of a nature and type approved by the board in some branch of medicine or surgery approved by the board.

For the purposes of paragraph (a), the board may treat any obstetrical experience as either medical or surgical experience.

This subsection shall not apply to or in respect of any person registered upon proof of the matters referred to in paragraph (d), (e), (f) or (g) of subsection (1) or in subsection (2), (2A) or (2B).

(4) Any period during which a proclamation under subsection (11) of section 18A is in force, and during which a person to whom a certificate of conditional registration granted under that section has effect practises his profession otherwise than as permitted by

paragraphs

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paragraphs (a) and (b) of subsection (3) of that section, may be accepted by the board, for the purposes of paragraph (a) of subsection (3) of this section, as equivalent to a corresponding period of service as a medical officer, as referred to in that paragraph.

(xvi) by omitting from section 17 (6) (c) the words "is a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts, or";

New sec.  
18A.

(i) by inserting next after section 18 the following new section :—

Certificate  
of  
conditional  
registration.

18A. (1) Where a person applies to be registered, the board, upon refusing the application, or adjourning the application for further consideration, under subsection (7) of section 18, and if satisfied that his application would be granted but for the operation of subsection (3) of section 17, shall, on payment of the prescribed fee, grant to him a certificate of conditional registration in the prescribed form.

(2) Where a person applies to be registered, the prescribed person (within the meaning of subsection (4) of section 20), if satisfied—

(a) that his application would be granted but for the operation of subsection (3) of section 17; or

(b) that he is of good character and he—

(i) is justly entitled to a degree (granted after due examination) in medicine or surgery of any university in the Commonwealth which is legally authorised to grant that degree;

(ii)

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- (ii) will have that degree conferred upon him in due course according to the practice of that university in conferring degrees; and
- (iii) would, if that degree had already been conferred upon him, be entitled to be registered but for the operation of subsection (3) of section 17,

may, upon payment of the prescribed fee, provisionally grant to him a certificate of conditional registration in the prescribed form.

(3) While a certificate of conditional registration granted under subsection (1) or (2) to a person has effect, he shall—

- (a) be competent to accept appointment as, or to hold office as, a medical officer—
  - (i) in any public hospital or separate institution within the meaning of the Public Hospitals Act, 1929; or
  - (ii) in any private hospital or other institution approved by the board;
- (b) be qualified to sign any medical certificate of the cause of death of any deceased person where that certificate is given in the course of his duties as such a medical officer;
- (c) if a proclamation under subsection (11) is in force, and not otherwise, be, subject to this Act, qualified also to practise his profession otherwise than as permitted by the foregoing provisions of this subsection; and

(d)

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(d) for purposes connected with or relating to the foregoing provisions of this subsection, be deemed to be registered.

(4) Subject to this Act, a certificate of conditional registration granted under subsection (1)—

- (a) shall have effect for a period of twelve months; and
- (b) may be renewed by the board from time to time for a like period upon payment of the prescribed fee.

(5) Subject to this Act, a certificate of conditional registration granted under subsection (2) shall have effect until—

- (a) the date stated in the certificate; or
- (b) such later date as is fixed by the board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(6) Upon the grant to a person of a certificate of conditional registration under subsection (1) during the currency of such a certificate granted to him under subsection (2), the lastmentioned certificate shall cease to have effect and the firstmentioned certificate shall, unless otherwise decided by the board, date from the granting of that lastmentioned certificate.

(7) If the holder of a certificate of conditional registration becomes registered, the certificate shall have no further effect.

(8)

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(8) The board may, at any time during No. 52, 1972 which a certificate of conditional registration has effect, for such cause as to it seems proper, cancel the certificate which shall thereupon cease to have effect.

(9) The provisions of sections 27, 27A, 28, 29 and 30 shall, mutatis mutandis, apply to and in respect of a person in respect of whom a certificate of conditional registration has effect.

For the purposes of that application a reference to a "registered person" shall be construed as a reference to the holder of a certificate of conditional registration, and any provision relating to the removal of the name of any person from the register shall be construed as a reference to the cancellation of a certificate.

(10) Without affecting the generality of subsection (9), a person who, while he is the holder of a certificate of conditional registration, practises his profession otherwise than as permitted by subsection (3) shall be deemed to be guilty of misconduct in a professional respect.

(11) Where it appears to the Governor that, by reason of any emergency or of the occurrence of any epidemic, conditions have rendered it necessary or desirable in the public interest to do so, the Governor may, by proclamation published in the Gazette, authorise holders of certificates of conditional registration also to practise their profession otherwise than as permitted by paragraphs (a) and (b) of subsection (3) for a period to be specified in the proclamation.

The

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The power conferred by this subsection may be exercised from time to time but so that the period specified in any proclamation shall not exceed one year.

A proclamation published under this subsection may be revoked by a subsequent proclamation published in the Gazette.

**Sec. 19.**  
(Appeal  
from  
board.)

(j) (i) by inserting in section 19 (1) after the word "him" the words "or to grant him a certificate of conditional registration under section 18A";

(ii) by inserting next after section 19 (1) the following new subsection :—

(1A) If the board decides to refuse to renew under subsection (4) of section 18A, or decides to cancel under subsection (8) of that section, a certificate of conditional registration granted to a person under that section, and that person is dissatisfied with that decision, he may apply to the Supreme Court, in accordance with rules of court, for an order directing the board to register him or to grant him a certificate of conditional registration under subsection (1) of that section.

(iii) by inserting in section 19 (2) after the words "on terms," the words "or that he be granted a certificate of conditional registration, or that he be granted such a certificate conditionally or on terms,";

**Sec. 20.**  
(Certificate  
of pro-  
visional  
registration  
may be  
granted.)

(k) (i) by omitting from section 20 (1) the words "the president, or, in his absence from the City of Sydney, any other member of the board authorised generally in that behalf by the board" and by inserting instead the words "the prescribed person";

(ii)

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(ii) by omitting from section 20 (1) the words **No. 52, 1972** "such person" wherever occurring and by inserting instead the words "the applicant";

(iii) by omitting from section 20 (1) (a) the word "or";

(iv) by omitting section 20 (1) (b);

(v) by omitting section 20 (2) and by inserting instead the following subsections:—

(2) Where a person has, whether before or after the commencement of section 5 of the Medical Practitioners (Amendment) Act, 1972, obtained a certificate of provisional registration he shall be deemed to be registered until—

- (a) the date stated in the certificate; or
- (b) such later date as may be fixed by the board,

which date shall, in either case, be not later than three months after the granting of the certificate.

(2A) The board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered.

(2B) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(vi)

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(vi) by inserting at the end of section 20 the following new subsection :—

(4) In subsection (1), “the prescribed person” means—

- (a) the president, or, in his absence from the City of Sydney, any other member of the board authorised generally in that behalf by the board; or
- (b) the secretary to the board.

**Sec. 21A.**  
(Registration for the practice of medicine and surgery in certain areas.)

(1) (i) by omitting from section 21A (8) the words “The board shall, as soon as practicable after it has granted an application or has decided that none of the applicants is suitable to be the holder of a certificate of regional registration notify the Minister accordingly.”;

(ii) by omitting section 21A (8A);

(iii) by inserting in section 21A (9) after the word “seventeen” the words “and section 30”;

(iv) by omitting from section 21A (12) the words “twenty-seven, twenty-eight and twenty-nine” and by inserting instead the matter “27, 27A, 28, 29 and 30”;

(v) by omitting section 21A (13) and by inserting instead the following subsection :—

(13) The Minister may, if in all the circumstances he considers it just and reasonable to do so, cancel a certificate of regional registration on the ground that the person to whom it was issued practised his profession outside the boundaries of the region mentioned in the certificate, or on any other ground.

(m)

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(m) (i) by omitting from section 21C (2) the words **No. 52, 1972**  
 "or of any branch of medicine or surgery"; **Sec. 21C.**

(ii) by omitting from section 21C the words  
 "license—

(a) to practise in all branches of medicine  
 and surgery; or

(b) to practise in such one or more  
 branches of medicine or surgery or  
 both as may be specified in the  
 license,

but in either case" wherever occurring and by  
 inserting instead the words "license to practise  
 in medicine and surgery, but";

(iii) by inserting in section 21C (4) after the words  
 "appointed by the Minister" the words  
 "Provided that the Dean may, if he is a  
 registered person, or shall, if he is not a regis-  
 tered person, appoint a registered person to  
 act on the examining committee, and that  
 person shall act on the examining committee  
 in the place of the Dean";

(iv) by inserting in section 21C (6) after the word  
 "seventeen" the words "and section 30";

(v) by omitting from section 21C (7) the words  
 "medicine or surgery or both to the extent  
 permitted by the license" and by inserting  
 instead the words "medicine and surgery as  
 permitted under this section";

(vi) by omitting from section 21C (8) the words  
 "twenty-seven, twenty-eight and twenty-nine"  
 and by inserting instead the matter "27, 27A,  
 28, 29 and 30";

(n)

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**No. 52, 1972** (n) by omitting section 22 (2) and (3);

Sec. 22.

(Correction  
of register.)

Sec. 24.

(Annual  
roll fee.)

(o) (i) by inserting in section 24 (1) after the word "Subject" the words "to this section and";

(ii) by inserting next after section 24 (1) the following new subsections:—

(1A) Where a registered person on or before the thirty-first day of May in any year applies for exemption from payment of the roll fee for the year commencing on the first day of October next following the said thirty-first day of May, the board shall, on or before the thirtieth day of June next following the said thirty-first day of May—

(a) if the board is satisfied that—

(i) he has attained the age of seventy years or will have attained that age on or before the said first day of October; and

(ii) he will not practise in New South Wales as a medical practitioner during the year commencing on the said first day of October,

exempt him from payment of the roll fee for that year; or

(b) if the board is not so satisfied, refuse the application and notify him of the refusal.

(1B)

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**(1B) Where—****No. 52, 1972**

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- (a) a registered person is exempted under subsection (1A) from payment of the roll fee for a year; and
- (b) he practises in New South Wales as a medical practitioner during that year,

he shall, not later than fourteen days after commencing so to practise, pay the roll fee for that year, and if he fails to do so the board may remove his name from the register.

- (iii) by inserting in section 24 (2) after the word "fee" the words "or his application under subsection (1A) for exemption from payment of the roll fee,";
- (iv) by inserting in section 24 (3) after the words "any year," the words "not being a person who is exempted under subsection (1A) from payment of the roll fee for the year commencing on the first day of October in that year,";
- (v) by omitting from section 24 (4) the words "the Board shall, subject to subsection (4A) of this section, upon application in the prescribed form, restore his name to the register upon payment of" and by inserting instead the words "he may make application in or to the effect of the prescribed form to the board to have his name restored to the register. Every such application shall be accompanied by";

(vi)

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(vi) by inserting at the end of section 24 (4) the following new paragraphs :—

(b) At its first meeting after any such application has been made to it, or so soon thereafter as is practicable, the board shall consider the application.

(c) The applicant shall attend in person before the board if required to do so by the board. The applicant may be represented by his solicitor or counsel.

The board may require the attendance of any other person.

(vii) by inserting next after section 24 (4A) the following new subsection :—

(4B) For the purpose of dealing with any application under this section for the restoration to the register of the name of any person, the board, and the president or other member presiding at the meeting at which the application is considered, shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing before the board.

Sec. 26.  
(Removal  
from New  
South Wales  
register  
after  
removal  
from other  
register.)

(p) (i) by omitting from section 26 (1) the words "on the grounds mentioned in paragraph (b) or in paragraph (c) of subsection one of section seventeen of this Act,";

(ii)

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(ii) by inserting in section 26 (1) after the word No. 52, 1972 "country" the words "outside New South Wales";

(q) (i) by omitting section 27 (1) (c) and by Sec. 27. inserting instead the following paragraphs :— (Disciplinary provisions.)

(c) has been guilty of misconduct in a professional respect; or

(d) is not of good character;

(ii) by omitting from section 27 (1) the words "constituted under section 27A of this Act";

(iii) by omitting from section 27 (1) the words "Any such complaint or charge shall be made by way of statutory declaration." and by inserting instead the following words :—

Any such complaint or charge shall be made in writing.

The investigating committee may require further particulars of any such complaint or charge to be furnished.

The investigating committee may require any such complaint or charge or further particulars to be verified by statutory declaration.

Where any such further particulars are not so furnished, or any such complaint, charge or further particulars are not so verified, as required by the investigating committee, the complaint or charge concerned shall, if the committee so declares, be deemed, for the purposes of subsection (2) of section 27A,

not

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not to have been received by it in accordance with the provisions of this section.

(iv) by omitting from section 27 (1) the words "felony or misdemeanour shall" and by inserting instead the words "felony, misdemeanour, crime or offence shall, except in such classes of cases as may be specified or described in the regulations,";

(v) by inserting next after section 27 (1) the following new subsection :—

(1A) The investigating committee may consider the particulars of the conviction of a registered person that have, whether before or after the commencement of section 5 of the Medical Practitioners (Amendment) Act, 1972, been forwarded to it under subsection (1) and, if it so directs, those particulars shall be deemed to be a complaint or charge made to it against the registered person in pursuance of paragraph (a) of that subsection and received by it in accordance with the provisions of this section.

(vi) by omitting from section 27 (2) the words "infamous conduct in any" and by inserting instead the words "misconduct in a";

(vii) by omitting from section 27 (2) the words "such conduct" wherever occurring and by inserting instead the words "such misconduct";

(viii) by omitting from section 27 (2) (b) the words "such offence" and by inserting instead the words "such misconduct";

(r)

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(r) (i) by inserting next after section 27A (2) the No. 52, 1972 following new subsection :—

Sec. 27A.  
(Investigat-  
ing com-  
mittee.)

(2A) Where in the course of the investigation of a complaint or charge against a registered person—

- (a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint or charge could be made to it against the registered person, whether in lieu of the complaint or charge then being investigated or in addition to it; and
- (b) the investigating committee is of the opinion that that other complaint or charge is one that could be made to it and received by it in accordance with section 27,

the investigating committee may itself make that other complaint or charge, which shall thereupon be deemed to be a complaint or charge made to it and received by it in accordance with the provisions of section 27.

(ii) by omitting from section 27A (3) (b) the words "constituted under section twenty-eight of this Act";

(iii) by omitting from section 27A (3) (c) the words "so constituted";

(iv)

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- (iv) by omitting from section 27A (4) the words "a member of the Public Service" and by inserting instead the words "of the Public Service acting in his capacity as such a member";
- (v) by omitting from section 27A (4) the words "infamous conduct" and by inserting instead the words "misconduct in a professional respect";
- (vi) by inserting next after section 27A (4) the following new subsection :—

(5) The investigating committee may, when referring a charge or complaint to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant, who shall, for the purposes of section 28, be deemed to be the person who made the complaint or charge.

**Sec. 28.  
(Disciplin-  
ary tri-  
bunal.)**

- (s) (i) by omitting from section 28 (2) the word "Any" and by inserting instead the words "Except as provided in subsection (4A), any";
- (ii) by inserting next after section 28 (4) the following new subsection :—
  - (4A) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a judge of the District Court.
- (iii) by omitting from section 28 (6) the word "preferred" and by inserting instead the word "made";

(iv)

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(iv) by inserting in section 28 (6) after the word **No. 52, 1972** “charge” the words “(not being a complaint or charge deemed by subsection (1A) of section 27 or subsection (2A) of section 27A to have been made to the investigating committee or deemed by subsection (8A) to have been referred to the disciplinary tribunal)”;

(v) by omitting section 28 (6A) and by inserting instead the following subsections :—

(6A) The chairman, upon request made by the person who made a complaint or charge, the registered person concerned or any other interested person, may—

(a) direct that the name of any witness shall not be disclosed at the inquiry; or

(b) direct that all or any of the following matters :—

- (i) the name and address of any witness;
- (ii) the name and address of the person who made the complaint or charge;
- (iii) the name and address of the registered person concerned;
- (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,

shall

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shall not be published in any newspaper, except a publication bona fide intended primarily for the use of members of the legal or medical profession, or by any means of producing or transmitting light or sound.

The chairman may amend or revoke any such direction at any time.

The chairman may exercise his powers under this subsection before or in the course of the hearing of the inquiry, but he shall not exercise his powers under this subsection before the hearing of the inquiry unless notice is given to the person who made the request under this subsection, the person who made the complaint or charge, the registered person concerned and such other persons as the chairman thinks fit of the time and place appointed by him for the consideration of the request.

Any direction given under the subsection which this subsection replaces shall be deemed to have been given under this subsection.

(6B) If any person publishes the name or address of any person or any evidence in contravention of any direction given under subsection (6A), he shall be guilty of an offence and liable to a penalty not exceeding four hundred dollars.

(6C) Notwithstanding anything in this Act, any investigation or inquiry of the disciplinary tribunal referred to in subsection (8) of section 29 shall be held in camera if the chairman so directs.

(vi)

*Medical Practitioners (Amendment).*

(vi) by inserting next after section 28 (8) the No. 52, 1972 following new subsections :—

(8A) Where in the course of the inquiry into a complaint or charge against a registered person—

- (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint or charge could have been made against the registered person, whether in lieu of the complaint or charge then being inquired into or in addition to it;
- (b) the disciplinary tribunal is satisfied that the investigating committee has not dealt with a complaint or charge under paragraph (a) or (b) of subsection (3) of section 27A, being a complaint or charge that was the same or substantially the same as that other complaint or charge; and
- (c) the disciplinary tribunal is of the opinion that that other complaint or charge is one that could have been made to and received by the investigating committee in accordance with section 27,

the disciplinary tribunal may itself make that other complaint or charge, which shall thereupon be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 27A.

(8B) Notwithstanding anything in this section, where in the course of any inquiry into a complaint or charge against a registered

person

*Medical Practitioners (Amendment).***No. 52, 1972**

person the disciplinary tribunal makes another complaint or charge against the registered person under subsection (8A), that other complaint or charge may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

**Sec. 29.**  
**(Penalties.)**

(t) (i) by inserting next after section 29 (2) the following new subsections :—

(2A) Where the disciplinary tribunal makes an order in respect of a person under subsection (1), paragraph (c) excepted, the disciplinary tribunal may by the same order direct that person to comply for a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

(2B) If the disciplinary tribunal has reason to believe that a person, in respect of whom a direction under subsection (2A) has been made, has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if he is adjudged guilty of that failure to comply, may make a further order under subsection (1).

(ii) by omitting from section 29 (4) the words "an order of suspension or an order directing that the name of any person be removed from the register" and by inserting instead the words "an adjudgment of guilt or from an order made";

(iii)

*Medical Practitioners (Amendment).*

(iii) by inserting at the end of section 29 (4) the No. 52, 1972 following words :—

Without affecting the generality of the foregoing provisions of this subsection, the court may make any order which the disciplinary tribunal might have made in the first instance under subsection (1).

The provisions of subsection (6A) of section 28 shall, in accordance with rules of court, apply, mutatis mutandis, to and in respect of any such appeal.

(iv) by omitting from section 29 (5) the words “of suspension or an order directing that the name of a registered person be removed from the register” and by inserting instead the words “made by the disciplinary tribunal pursuant to this section”;

(v) by inserting in section 29 (8) after the word “tribunal” the words “, after such investigation or inquiry as it thinks fit,”;

(vi) by omitting section 29 (9);

(vii) by inserting at the end of section 29 the following new subsection :—

(10) The provisions of section 28 and this section that apply to or in respect of a registered person shall apply mutatis mutandis to or in respect of a person who has been suspended from practice under this section and with respect to whom an inquiry may be or has been held under subsection (2B) or (8).

(u)

*Medical Practitioners (Amendment).***No. 52, 1972****Sec. 30.**

(Mental or physical unfitness of registered person, applicant for registration, etc.)

(u) (i) by omitting section 30 (1) and (2) and by inserting instead the following subsections :—

(1) Where the board is satisfied on such evidence as to it seems proper that any applicant for registration under this Act or for restoration under this Act to the register or any registered person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a medical practitioner, the board—

- (a) may refuse the application; or
- (b) may by order—

- (i) suspend the registered person from practice for such period as may be specified in the order; or

- (ii) direct that the name of the registered person be removed from the register,

as the case may be.

(1A) For the purposes of subsection (1) the board—

- (a) may require the applicant or registered person to undergo, at the expense of the board, such medical examination by such medical practitioner as may be specified by the board; and

- (b) may hold such inquiry as the board thinks fit.

(1B) A failure or refusal by any person required by the board to undergo a medical examination in accordance with a requirement

of

*Medical Practitioners (Amendment).*

of the board under paragraph (a) of subsection (1A) may be regarded by the board as evidence that that person is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise. No. 52, 1972

(2) Where a registered person becomes a patient, or a voluntary patient, within the meaning of the Mental Health Act, 1958, the prescribed person shall, in the prescribed manner and within the prescribed time, cause a notice of that fact to be forwarded to the secretary to the board.

(2A) An order made under this section by the board suspending a person from practice or directing that the name of a person be removed from the register shall not take effect before—

- (a) a notice informing the person to whom the order relates of the making of the order has been personally served on him; or
- (b) the expiration of the prescribed period after such a notice has been forwarded to him in the prescribed manner,

whichever first occurs.

(2B) Where an order made under this section suspending a person from practice has been made, the board may by a subsequent order—

- (a) amend the order of suspension by varying the period during which the suspension is to continue;
- (b) upon the application of that person, revoke the order of suspension; or

(c)

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(c) if it is satisfied as to the matters referred to in subsection (1), revoke the order of suspension and direct that the name of the person be removed from the register.

(2c) Where an order made under this section directing that the name of a person be removed from the register has not taken effect, the board may, upon the application of that person, revoke the order.

- (ii) by omitting from section 30 (3) the word "registered";
- (iii) by omitting from section 30 (3) the words "subsection one of";
- (iv) by inserting in section 30 (4) after the word "suspension" where secondly occurring the words "under that section";
- (v) by inserting next after section 30 (4) the following new subsections :—

(5) While any order of suspension from practice under this section remains in force the person concerned shall be deemed not to be registered, but forthwith on the expiry or revocation of the order his rights and privileges as a registered person shall be revived as from the date of the expiry or revocation.

(6) For the purpose of any inquiry under paragraph (b) of subsection (1A) or of dealing with any application under this section, the board and the president or other member presiding at the inquiry or meeting at which the application is considered, as the case may be, shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923,

on

### *Medical Practitioners (Amendment).*

on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing before the board.

(7) Nothing in this section affects the powers of the board under any other provision of this Act to refuse an application for registration under this Act or for restoration under this Act to the register or to suspend a registered person from practice or to remove the name of a registered person from the register.

(v) by inserting at the end of section 31 (3) (d) the Sec. 31.  
following word and new paragraphs :—  
; or  
(Publication  
of list of  
registered  
persons,  
etc.)

- (e) on a specified day or days or during the whole of a specified period a particular person was the holder of a certificate granted under section 18A or issued under section 21 or 21A, or a license issued under section 21C, as the case may require; or
- (f) on a specified day or days or during the whole of a specified period a particular person was not the holder of a certificate granted under section 18A or issued under section 21 or 21A, or a license issued under section 21C; or
- (g) on a specified day a certificate granted under section 18A or issued under section 21 or 21A, or a license issued under section 21C, held by a particular person was cancelled;

(w)

*Medical Practitioners (Amendment).*

|  |   |
|--|---|
| <b>No. 52, 1972</b><br><b>Sec. 35.</b><br>(Registered persons may recover fees.)     | (w) (i) by omitting from section 35 (2) the word "three" and by inserting instead the word "six";<br>(ii) by omitting section 35 (3);   |
| <b>Sec. 36.</b><br>(Application to review bill.)                                     | (x) by omitting from section 36 (1) the word "three" and by inserting instead the word "six";   |
| <b>Sec. 42.</b><br>(Penalty for posing as medical practitioner when not registered.) | (y) by inserting next after section 42 (1) the following new subsection :—<br>(1A) A person shall not hold himself out to be or lead persons to infer that he is—<br>(a) registered under Part III unless he is the holder of a certificate of registration or a certificate of provisional registration in force under Part III or unless he, having been so registered, is entitled to receive such a certificate of registration;<br>(b) the holder of a certificate of conditional registration unless he is the holder of such a certificate that is in force;<br>(c) the holder of a certificate of registration for post-graduate teaching or for receiving post-graduate tuition or for research work in medicine or surgery unless he is the holder of such a certificate that is in force;<br>(d) the holder of a certificate of regional registration unless he is the holder of such a certificate that is in force; or |

(e)

*Medical Practitioners (Amendment).*

(e) the holder of a license under section 21C No. 52, 1972 unless he is the holder of such a license that is in force,

but nothing in paragraph (a) prevents a person who, though not registered under Part III, is, by virtue of subsection (3) of section 18A, subsection (2) of section 21, subsection (11) of section 21A, or subsection (7) of section 21C, as the case may require, deemed to be so registered from holding himself out to be or leading persons to infer that he is so registered in relation to the purposes referred to in the said subsection (3), (2), (11) or (7), as the case may require.

A person who contravenes any of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months, or to both such penalty and such imprisonment.

(z) (i) by inserting in section 47 (b) after the word Sec. 47. "board" wherever occurring the words "the (Penalties for false statements, etc.) investigating committee";

(ii) by inserting in section 47 (e) after the word "granted" the words "or issued";

(iii) by inserting in section 47 (e) after the word "Act" where secondly occurring the words "or in any license issued under this Act";

(iv) by omitting from section 47 (f) the words "of provisional registration" and by inserting instead the words "or license";

(v) by inserting in section 47 (g) after the word "certificate" where firstly occurring the words "or license";

(vi)

*Medical Practitioners (Amendment).***No. 52, 1972**

(vi) by inserting in section 47 (h) after the word "certificate" the words "or license";

(vii) by inserting in section 47 (i) after the word "certificate" the words "or license";

New sec.  
49A.

(aa) by inserting next after section 49 the following new section :—

Medical  
service  
given in  
emergencies  
by persons  
registered  
elsewhere.

49A. The giving or performance of any medical or surgical advice, service, attendance or operation in an emergency by a person who, at the time thereof, was duly registered as a medical practitioner under the law in force in any State (other than New South Wales) or Territory of the Commonwealth, but who was not registered under this Act, shall have the same legal effect as if he had been registered under this Act at the time of the emergency.

New sec.  
50A.

(bb) by inserting next after section 50 the following new section :—

Protection  
from  
liability.

50A. No matter or thing done or suffered by the board, the disciplinary tribunal, the investigating committee, any member of the board, the disciplinary tribunal or the investigating committee or the secretary to the board, bona fide in the execution, or intended execution, of this Act, or the exercise or discharge, or intended exercise or discharge, of any of its or his powers or duties, shall subject the board, the disciplinary tribunal, the investigating committee, the member, the secretary, the Minister, or any other person, or the Crown, to any liability in respect thereof.

(cc)

*Medical Practitioners (Amendment).*

(cc) by omitting from section 52 the words "or police"; No. 52, 1972

Sec. 52.  
(Offences  
and  
penalties.)

(dd) (i) by omitting from section 53 (1) (b) the word "preferred" and by inserting instead the word "made"; Sec. 53.  
(Regulations.)

(ii) by omitting from section 53 (1) (c) the words "inquiry in respect of any complaint or charge referred by the investigating committee to" and by inserting instead the words "investigation by the investigating committee or an inquiry by";

(iii) by inserting next before section 53 (3) the following new subsection :—  
(2B) The regulations may be made to differ according to time, place or circumstances.

(iv) by omitting section 53 (4);

(v) by omitting section 53 (5) and (6) and by inserting instead the following subsection :—  
(5) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) The provisions of section 17 (3) of the Principal Act, as in force immediately before the commencement of this section, shall continue to apply to and in respect of a person registered under Part III of that Act before that commencement in the same manner as if subsection (1) had not been enacted.

(3) The provisions of sections 27, 27A, 28 and 29 of the Principal Act, as in force immediately before the commencement of this section, shall continue to apply to and in respect of a complaint or charge made under the said section 27 before that commencement in the same manner as if subsection (1) had not been enacted.

**No. 52, 1972**

Further amendment of Act No. 37, 1938.

Sec. 23. (Notice of change of address to be given.)

Sec. 27A. (Investigating committee.)

Sec. 40. (Disqualification of unregistered person from holding certain appointments.)

Sec. 41. (Disqualification of unregistered person from signing certain certificates.)

Sec. 42. (Penalty for posing as medical practitioner when not registered.)

Sec. 43. (Penalties for certain offences.)

Sec. 44. (Treatment by means of radium or X-ray.)

**6. The Principal Act is further amended—**

- (a) by omitting from section 23 (2) the words "ten dollars" and by inserting instead the words "twenty dollars";
- (b) by omitting from section 27A (2) the words "one hundred dollars" and by inserting instead the words "four hundred dollars";
- (c) by omitting from section 40 (2) the words "to a penalty not exceeding forty dollars" and by inserting instead the words "on conviction on indictment to a penalty not exceeding two thousand dollars or to imprisonment for any term not exceeding two years, or to both such penalty and such imprisonment";
- (d) by inserting at the end of section 41 (1) the following new paragraph :—  
Any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding four hundred dollars.
- (e) by omitting from section 42 the words "one hundred dollars" wherever occurring and by inserting instead the words "eight hundred dollars or to imprisonment for a term not exceeding twelve months, or to both such penalty and such imprisonment";
- (f) by omitting from section 43 the words "forty dollars" wherever occurring and by inserting instead the words "eight hundred dollars or to imprisonment for a term not exceeding twelve months, or to both such penalty and such imprisonment";
- (g) by omitting from section 44 the words "one hundred dollars" and by inserting instead the words "four hundred dollars";
- (h)

*Medical Practitioners (Amendment).*

(h) by omitting from section 45 (1) the words "forty dollars" and by inserting instead the words "one hundred dollars";

(No. 52, 1972  
Sec. 45.  
(Advertisement to promote sale of food, drug or appliance.)

(i) by omitting from section 50 (2) the words "one hundred dollars" and by inserting instead the words "two hundred dollars";

(Sec. 50.  
(Rules of association prohibiting consultations void.)

(j) by omitting from section 53 (3) (b) the words "twenty dollars" and by inserting instead the words "fifty dollars".

(Sec. 53.  
(Regulations.)

**7.** The Principal Act, as amended by sections 4, 5 and 6, is amended—

Further amendment of Act No. 37, 1938.

(a) by omitting from section 2 the matter relating to Part III and by inserting instead the following matter :—

(Sec. 2.  
(Division into Parts.)

**PART III.—REGISTRATION OF MEDICAL PRACTITIONERS—ss. 14A-32.**

**PART IIIA.—REGISTRATION OF SPECIALISTS—ss. 32A-32N.**

(b) (i) by inserting next after the definition of "Disciplinary tribunal" in section 3 (1) the following new definition :—

"General register" means the Register of Medical Practitioners for New South Wales.

(ii) by omitting the definition of "Register" in section 3 (1);

(iii)

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(iii) by omitting the definition of "Registered" in section 3 (1) and by inserting instead the following definition :—

"Registered", except in Part IIIA, means registered under Part III.

(iv) by inserting next after the definition of "Regulations" in section 3 (1) the following new definition :—

"Specialist register" means the Register of Specialists for New South Wales.

(v) by inserting at the end of section 3 (1) the following new definition :—

"Unregistered person" means a person who is not registered under Part III.

Part III.  
(Heading.)

(c) by omitting from the heading to Part III the words "REGISTRATION AND QUALIFICATIONS THEREFOR" and by inserting instead the words "REGISTRATION OF MEDICAL PRACTITIONERS.;"

New  
sec. 14A.

(d) by inserting next before section 15 the following new section :—

Definition.

14A. In this Part, "the register" means the general register.

Sec. 16.  
(Prac-  
titioners  
registered  
under  
repealed  
Acts to be  
registered  
under this  
Part.)

(e) by omitting from section 16 the words "under this Act" and by inserting instead the words "under this Part";

(f)

*Medical Practitioners (Amendment).*

(f) (i) by omitting from section 17 (1A) (d) the words "under this Act" and by inserting instead the words "under this Part"; No. 52, 1972  
Sec. 17.  
(Qualifications for future registration.)

(ii) by omitting from section 17 (5) the words "under this Act" where firstly occurring; (Qualifications for future registration.)

(iii) by omitting from section 17 (5) the word "Act" where thirdly occurring and by inserting instead the word "Part";

(iv) by omitting from section 17 (7) the words "under this Act";

(g) (i) by omitting from section 18 (1) the words "under this Act"; Sec. 18.  
(Application for registration.)

(ii) by omitting from section 18 (1) the word "so";

(h) by omitting from section 21 (2) the words "under this Act"; Sec. 21.  
(Registration for post-graduate teaching in medicine.)

(i) by omitting from section 21A (11) the words "under this Act"; Sec. 21A.  
(Registration for the practice of medicine and surgery in certain areas.)

(j) by omitting from section 21C (7) the words "under this Act"; Sec. 21C.  
(Licenses to practise medicine or surgery in limited circumstances.)

(k) by omitting from section 24 (5) the words "a person not registered under this Act" and by inserting instead the words "an unregistered person"; Sec. 24.  
(Annual roll fee.)

(l)

**No. 52, 1972****Sec. 25.**

(Amendment of register if person wrongfully registered or if particulars incorrect.)

(1) (i) by omitting from section 25 (1) the words "under this Act" wherever occurring;

(ii) by omitting from section 25 (1) the word "so";

**Sec. 26.**

(Removal from New South Wales register after removal from other register.)

(m) by omitting from section 26 (1) the words "under this Act" and by inserting instead the words "under this Part";

**Sec. 27.**

(Disciplinary provisions.)

(n) by inserting in section 27 (2) (b) after the word "register" the words "or other than a description which he is authorised to use in relation to himself in pursuance of section 32B";

**Sec. 30.**

(Mental or physical unfitness of registered person, applicant for registration, etc.)

(o) (i) by omitting from section 30 (1) the word "Act" wherever occurring and by inserting instead the word "Part";

(ii) by omitting from section 30 (7) the word "Act" where secondly and thirdly occurring and by inserting instead the word "Part";

**Sec. 31.**

(Publication of list of registered persons, etc.)

(p) by omitting from section 31 (2) the word "Act" and by inserting instead the word "Part";

(q)

*Medical Practitioners (Amendment).*

(q) by inserting next after Part III the following new No. 52, 1972  
Part :—

New Part  
IIIa.

**PART IIIA.**

**REGISTRATION OF SPECIALISTS.**

32A. In this Part, except in so far as the context **Definitions** or subject-matter otherwise indicates or requires—

“registered” means registered under this Part;

“specialist branch” means a branch of medicine or surgery declared to be a specialist branch under subsection (3) of section 32B;

“specialist division” means a division of the specialist register, established under subsection (3) of section 32B.

32B. (1) The board shall keep a register, to be Register called the “Register of Specialists for New South <sup>of</sup> <sub>specialists.</sub> Wales”.

(2) The specialist register shall be divided into such divisions as are established under subsection (3).

(3) The Governor may, from time to time, by proclamation published in the Gazette—

(a) specify a branch of medicine or surgery by reference to such matters as he thinks fit and declare that branch to be a specialist branch for the purposes of this Act;

(b) assign a name to that branch for the purposes of this Act;

(c) establish a specialist division of the specialist register, in which division persons who practise in that branch may be registered in accordance with this Part;

(d)

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(d) assign a name to that division for the purposes of this Act; and

(e) specify the description which a person registered in that division is authorised to use in relation to himself.

(4) A proclamation under subsection (3) may be amended or revoked by a like proclamation.

(5) A person shall be registered in a specialist division by the entering in that division of—

(a) his full name and address;

(b) the date upon which his name is so entered;

(c) such particulars (if any) of his qualifications in the specialist branch to which that division relates as the board thinks fit.

(6) A person shall not, while registered in a specialist division, be entitled to be registered in any other specialist division.

(7) The board may, in addition to or in lieu of any description referred to in paragraph (e) of subsection (3), specify in the specialist division the description which a particular person registered therein is authorised to use in relation to himself.

(8) Upon registration in a specialist division, a person shall be entitled to receive from the board a certificate of registration in the prescribed form.

(9) The specialist register shall at all reasonable times be open to inspection at the office of the board by any person on payment of the prescribed fee.

*Medical Practitioners (Amendment).*

32C. (1) Subject to this Part, a person may be No. 52, 1972 registered in a specialist division if he is the holder of a certificate of registration under Part III and if he satisfies the board—

Qualifications for registration.

- (a) that he possesses such special skill and experience in the specialist branch to which that division relates as warrants his registration in that division;
- (b) that he is the holder of a certificate, diploma, membership, degree, license, letters, testimonial or other qualification, approved by the board in relation to that branch; and
- (c) that he has been practising in that branch, and in no other branch of medicine or surgery, for such period immediately before he made his application to be so registered as warrants his registration in that division.

(2) Notwithstanding anything in subsection (1), the board may exempt a person from satisfying the board as to the matters contained in either or both of paragraphs (b) and (c) of that subsection if the board is satisfied that it is proper to do so, having regard to that person's special skill and experience referred to in paragraph (a) of that subsection and to the circumstances of the case.

32D. (1) Any person desiring to be registered in a specialist division may make application to the board to be so registered.

Application for registration.

(2) Every such application shall be accompanied by the prescribed fee.

(3) At its first meeting after any such application has been made to it, or so soon thereafter as is practicable, the board shall consider the application.

(4)

*Medical Practitioners (Amendment).*

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(4) The applicant shall submit to the board proof of the qualifications upon which he relies.

(5) If not satisfied that the applicant should be registered, the board may refuse the application or may adjourn it for further consideration.

Annual  
roll fee.

32E. (1) Every registered person shall, on or before the thirtieth day of June in each year, pay a roll fee for the year commencing on the first day of October next following the said thirtieth day of June.

The annual roll fee shall be such amount as may be prescribed and shall be in addition to the roll fee payable under section 24.

(2) Together with the roll fee the registered person shall furnish particulars of his address for entry in the specialist division in which he is registered.

(3) If any registered person does not pay the prescribed fee on or before the said thirtieth day of June in any year, the board shall forthwith notify him by letter addressed to him at the address appearing in the specialist division in which he is registered, that if the fee is not paid before the thirtieth day of September next following, his name will be removed from that division. If any registered person who has been so notified fails to pay the fee before the said thirtieth day of September, the board shall remove his name from that division.

(4) If the name of any registered person is removed from a specialist division under this section, the board shall, subject to section 32H, upon application in the prescribed form, restore his name to that division upon payment of such fees as are prescribed by regulations.

The

*Medical Practitioners (Amendment).*

The regulations may provide for the waiver of No. 52, 1972 the whole or such part of the fees as the board may in a particular case deem proper.

32F. (1) The board shall remove from the Removal from specialist division in which he is registered the name register of name of any person whose name is removed from the person not general register.

(2) Where a person's name has been removed from a specialist division by reason only of the operation of subsection (1), the board shall, subject to section 32H, and subject to his having paid the roll fee payable under section 32E for the year commencing on the first day of October then last past, upon application in the prescribed form restore his name to that division when his name is restored to the general register and upon payment of such fees as are prescribed by regulations.

The regulations may provide for the waiver of the whole or such part of the fees as the board may in a particular case deem proper.

(3) A registered person shall be deemed not to be registered while he is, in pursuance of this Act, deemed not to be registered under Part III.

32G. The board shall, upon request made by a Removal from registered person and upon his delivering up his specialist certificate of registration received under subsection register (8) of section 32B or satisfying the board that his <sup>of name</sup> on certificate has been lost or destroyed, remove his request. name from the specialist division in which he is registered.

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Removal  
from  
specialist  
register or  
refusal to  
restore  
thereto on  
certain  
grounds.

32H. (1) After inquiry the board may, if it thinks fit, decide—

- (a) to remove from a specialist division the name of a person registered therein; or
- (b) to refuse to restore to a specialist division the name of a person removed therefrom,

if it is satisfied that—

- (c) he has, while so registered, or, in the case of a person referred to in paragraph (b), since his name was removed from a specialist division as referred to in that paragraph, practised, without the consent of the board (which consent the board is hereby empowered to give), in medicine or surgery other than in the specialist branch to which that division relates;
- (d) he has, while so registered, ceased to practise in that specialist branch; or
- (e) he does not possess such special skill in that specialist branch as warrants the continuance of his registration in, or the restoration of his name to, that division.

(2) The board shall fix a date and place for the holding of an inquiry under this section, and shall give at least seven days' notice to the person concerned of the date and place of the inquiry and of the subject-matter of the inquiry.

(3) A decision under subsection (1) in respect of a person referred to in paragraph (a) of that subsection shall not take effect until the expiration of a period of twenty-one days after notification in the prescribed manner by the board to the person concerned of the decision.

If

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If within that period the person concerned gives No. 52, 1972 due notice of appeal to the Supreme Court, the decision shall not take effect unless and until it is confirmed by the Supreme Court, or the appeal is for any reason dismissed by that Court.

32I. Notwithstanding anything in this Part—

(a) a person's application to be registered in or restored to a specialist division shall not be refused; or

(b) the name of a person registered in a specialist division shall not be removed therefrom,

Certain acts not to affect exclusiveness of practice in specialist branch.

by reason only of the fact that he rendered professional services to another person in some branch of medicine or surgery other than in the specialist branch to which that division relates, if—

(c) he had reasonable cause to believe that that other person was in urgent need of those services;

(d) he had reasonable cause to believe that it was necessary or desirable that those services be rendered to that other person in connection with the professional services being rendered to him in that branch; or

(e) those services were of a minor nature.

32J. A person's registration under Part III Removal of is not affected by reason only of the removal of his name from specialist register not to affect registration under Part III.

32K. Part III.

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Application of provisions of Part III relating to correction and amendment of register, and publication of list.

Certificate of secretary to board to be evidence.

Powers of board as to applications and inquiries.

32K. The provisions of subsection (1) of section 22, section 23, section 25 and subsections (1) and (2) of section 31 shall apply to and in respect of a specialist division and persons registered under this Part in the same manner as they apply to and in respect of the general register and persons registered under Part III.

32L. A certificate purporting to be signed by the secretary to the board and to certify that—

- (a) on a specified day or days, or during the whole of a specified period, a particular person was duly registered in a specified specialist division;
- (b) on a specified day or days, or during the whole of a specified period, a particular person was not registered in a specified, or in any, specialist division; or
- (c) on a specified day the name of a particular person was removed from a specialist division,

shall, without proof of the signature of the person purporting to sign the certificate or that he was the secretary to the board, and notwithstanding any discrepancy between the certificate and the register, be conclusive evidence of the matters certified in and by the certificate.

32M. (1) At a meeting of the board at which any application made under this Part is considered or at which an inquiry under section 32H is held—

- (a) the person concerned shall attend in person before the board unless specially excused by the board from so doing;

(b)

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- (b) the person concerned may be represented No. 52, 1972 by his solicitor or counsel; and
- (c) the board may require the attendance of any person.

(2) For the purpose of dealing with an application or inquiry referred to in subsection (1), the board and the president or other member presiding at the meeting at which the application is considered or the inquiry is held shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission, respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing before the board.

32N. (1) If any person is dissatisfied with the <sup>Appeal from</sup> ~~board~~ decision of the board—

- (a) to refuse to grant a person's application for registration;
- (b) to remove a person's name from a specialist division; or
- (c) to refuse to restore a person's name to a specialist division,

he may appeal to the Supreme Court in accordance with rules of court.

(2) The appeal shall be in the nature of a rehearing.

(3) The Supreme Court may make such order as it thinks fit or may dismiss the appeal.

(r)

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Sec. 39.  
(Reference  
in other  
Acts to  
legally  
qualified or  
duly  
qualified  
medical  
prac-  
tioners.)

(r) by omitting from section 39 the words "under this Act" and by inserting instead the words "under Part III";

Sec. 39A.  
(Provisions  
applicable  
to corpor-  
ations.)

(s) by omitting from section 39A the words "persons who are not registered under this Act" and by inserting instead the words "unregistered persons";

Sec. 41.  
(Disquali-  
fication of  
unregistered  
person from  
signing  
certain  
certificates.)

(t) by omitting from section 41 (2) the words "registered under this Act" and by inserting instead the words "a registered person";

Sec. 41A.  
(Unregis-  
tered person  
not to  
treat certain  
diseases.)

(u) (i) by omitting from section 41A (2) the words "a person not registered under this Act" and by inserting instead the words "an unregistered person";  
(ii) by omitting from section 41A (3) the words "A person not registered under this Act" and by inserting instead the words "An unregistered person";  
(v) by omitting from section 41B the words "A person not registered under this Act" and by inserting instead the words "An unregistered person";

Sec. 41B.  
(Unregis-  
tered person  
may not  
recover  
fees.)

(w) (i) by omitting from section 42 (1) the words "person, not registered under this Act," and by inserting instead the words "unregistered person";  
(ii) by omitting from section 42 (1) the words "as a medical practitioner, or that he is registered as a medical practitioner under this Act"

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Act" and by inserting instead the words **No. 52, 1972**  
 "under Part III or IIIA, or that he is so  
 registered";

(iii) by inserting next after section 42 (1A) the following new subsection :—

(1B) A person shall not hold himself out to be or lead persons to infer that he is registered under Part IIIA unless he is the holder of a certificate of registration in force under Part IIIA or unless he, having been so registered, is entitled to receive such a certificate.

A person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months, or to both such penalty and such imprisonment.

(iv) by omitting from section 42 (2) the words "person, not registered under this Act," wherever occurring and by inserting instead the words "unregistered person";

(x) by omitting from section 44 the words "person not **Sec. 44.**  
 registered under this Act" and by inserting instead **(Treatment  
 by means of  
 radium or  
 X-ray.)**  
 the words "unregistered person";

(y) (i) by omitting from section 47 (a) the word **Sec. 47.**  
 "register" wherever occurring and by inserting **(Penalty  
 for false  
 statements,  
 etc.)**  
 instead the words "general register or the specialist register";

(ii) by inserting in section 47 (d) after the word "registered" the words "under Part III or IIIA";

(iii) by inserting in section 47 (f) after the word "registered" the words "under Part III or IIIA";

(iv)

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(iv) by omitting from section 47 (i) the words "under this Act" and by inserting instead the words "under Part III or IIIA";

**Sec. 49A.**  
(Medical  
service  
given in  
emergencies  
by persons  
registered  
else-  
where.)

(z) by omitting from section 49A the words "this Act" wherever occurring and by inserting instead the matter "Part III";

**Sec. 53.**  
(Regula-  
tions.)

(aa) (i) by omitting from section 53 (1) (d) the word "register" and by inserting instead the words "general register and the specialist register";

(ii) by inserting next after section 53 (2B) the following new subsection :—

(2c) Without affecting the generality of subsection (2B), the regulations may be made to differ according to whether they relate—

(a) to persons registered only under Part III or to persons registered under both Parts III and IIIA;

(b) to registration under Part III or to registration under Part IIIA; or

(c) to the general register or to the specialist register.

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