



LEGISLATIVE ASSEMBLY OF GOA

The Goa Medical Council Bill, 1991

(Bill No. 10 of 1991)

(To be introduced in the Legislative Assembly of Goa)

**GOA LEGISLATURE DEPARTMENT
ASSEMBLY HALL, PANAJI
MARCH, 1991**

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A

BILL

to unify, consolidate and make better provision in the law regulating the registration of persons practising modern scientific medicine in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-second Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Medical Council Act, 1991.

(2) It extends to the whole of the State of Goa.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires, —

(a) “appointed day” means the date on which the provisions of this Act other than section 1 come into force under sub-section (3) of section 1;

(b) “Council” means the Goa Medical Council constituted or deemed to be constituted under section 3;

(c) “Executive Committee” means the Executive Committee of the Council constituted under section 11;

(d) “Government” means the Government of Goa;

(e) “medical practitioner” or “practitioner” means a person who is engaged in the practice of modern scientific medicine in any of its branches including surgery and obstetrics, but not including veterinary medicine or surgery or the Ayurvedic, Unani, Homoeopathic or Biochemic system of medicine;

- (f) "member" means a member of the Council;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "President" means the President of the Council;
- (i) "register" means the register of medical practitioners prepared or deemed to be prepared and maintained under this Act;
- (j) "registered practitioner" means a medical practitioner whose name is for the time being entered in the register, but does not include a person whose name is provisionally entered in the register;
- (k) "Registrar" means the Registrar appointed under section 14 or 32 as the case may be;
- (l) "rules" means rules made under section 28;
- (m) "Vice-President" means the Vice-President of the Council.

CHAPTER II

Constitution, Functions and Powers of the Council

3. *Constitution and incorporation of Council.* —

(1) The Government may, by notification in the Official Gazette, constitute a Council to be called the Goa Medical Council.

(2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may by the name aforesaid sue and be sued.

(3) The Council shall consist of the following members, namely: —

(a) The Director of Health Services, ex-officio;

(b) The Dean or Director, Goa Medical College, ex-officio;

(c) three members to be nominated by the Government, out of whom not more than one may be a person who is not a practitioner;

(d) one member from University established by law in the State of Goa which has a medical faculty, elected by members of the medical

faculty of the University from amongst members thereof who are practitioners;

(e) five members to be elected by registered practitioners from amongst themselves.

(4) The President and Vice-President shall be elected by the members from amongst themselves.

(5) The election of the members and of the President and Vice-President shall be held at such time, and at such place and in such manner, as may be prescribed.

(6) If at any election, the electors fail to elect the requisite number of members or the President or the Vice-President, the Government shall nominate such registered practitioner or practitioners as it deems fit, to fill up vacancy or vacancies; and the practitioners so nominated shall be deemed to have been duly elected under this section.

(7) Where any dispute arises regarding any election of a member or the President or Vice-President, it shall be referred to the Government and the decision of the Government shall be final.

(8) Until elections are held to elect the members or President or Vice-President, the Government shall nominate such registered practitioner or practitioners as it deems fit to fill up the vacancy or vacancies; and the practitioners so nominated shall be deemed to have been duly elected under this section.

4. *Term of Office.*— (1) The Government shall, by notification in the Official Gazette, publish the names of the members elected and nominated.

(2) Save as otherwise provided by this Act, a member, whether elected or nominated, shall hold office for a term of 5 years from the date of publication of the notification under sub-section (1):

Provided that, where a person is elected by members of a medical faculty of a University, he shall cease to hold office as a member, if he ceases to belong to that faculty.

(3) Save as otherwise provided by this Act, the President and the Vice-President shall hold office from the date of his election upto the day on which his term of office as member expires.

(4) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (2), be deemed to extend to and expire with the day immediately preceding the day on which the names of the successor members are published under sub-section (1).

(5) The term of office of an outgoing President or Vice-President shall, notwithstanding anything contained in sub-section (3), be deemed to extend to and expire with the day immediately preceding the day on which the successor President or Vice-President, as the case may be, is elected.

(6) An outgoing member, President or Vice-President, shall be eligible for re-election or re-nomination.

(7) Leave of absence may be granted by the Council to any member for a period not exceeding six months.

5. *Casual vacancies.* — (1) Any casual vacancy, previous to the expiry of the term, in the office of the President or the Vice-President or of a member elected under clause (d) and (e) of sub-section (3) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be filled by election:

Provided that, any such vacancy in the office of an elected member occurring within six months prior to the date on which the term of office of all the members expires, shall not be filled.

(2) Any casual vacancy, previous to the expiry of the term, in the office of a member nominated under clause (c) of sub-section (3) of section 3 shall be reported forthwith by the Registrar to the Government, and shall as soon as possible thereafter be filled by the Government by nomination.

(3) Any person elected under sub-section (1) or nominated under sub-section (2) to fill a casual vacancy shall, notwithstanding anything contained in section 4, hold office only so long as the person in whose place he is elected or nominated would have held office, if the vacancy had not occurred.

6. *Resignation.* — (1) The President or the Vice-President may at any time resign his office by a notice in writing addressed to the Council, and delivered to the Registrar. The resignation shall

take effect from the date on which it is accepted by the Council.

(2) An elected member may at any time resign his office by a notice in writing addressed to the President. A nominated member may at any time resign his office by a notice in writing addressed to the Government. Every such resignation shall take effect from the date on which it is accepted by the President or, as the case may be, the Government.

7. *Disqualification and disability.* — (1) A person shall be disqualified for being elected or nominated as, and for continuing as, a member, —

(a) if he is an undischarged insolvent;

(b) if he is of unsound mind and stands so declared by competent Court;

(c) if his name has been removed from the register and has not been re-entered therein; or

(d) if he is a whole time officer or servant of the Council.

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council granted under sub-section (7) of section 4 or without such reasons as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.

(3) If any member becomes or is found to be subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to the Government, and the Government, if satisfied about the disqualification, shall declare his seat vacant.

8. *Meetings of Council.* — (1) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.

(2) The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, the Vice-President, and in the absence of both, some other member elected by the members present from amongst themselves, shall preside at such meetings.

(3) All questions at a meeting of the Council shall be decided by a majority of votes.

(4) The presiding authority at a meeting shall have and exercise a second or a casting vote in case of an equality of votes.

(5) Six members including the President and the Vice-President shall form a quorum. When a quorum is required but not present, the presiding authority shall adjourn the meeting to such hour on some future day as it may notify on the notice board at the office of the Council; and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting, and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum present, or not.

9. Proceedings of meetings and validity of acts.—

(1) The proceedings of the discussion of every meeting of the Council shall be treated as confidential; and no person shall, without the previous resolution of the Council, disclose any portion thereof:

Provided that, nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution adopted by the Council unless the Council directs such resolution also to be treated as confidential.

(2) No disqualification of or defect in the election or nomination of any person as a member, or as the President, or as the Vice-President, or as a presiding authority of a meeting, shall of itself be deemed to vitiate any act or proceedings of the Council in which such person has taken part, whenever the majority of persons who are parties to such act or proceedings, were entitled to vote.

(3) During any vacancy in the Council, the continuing members may act, as if no vacancy had occurred:

Provided that, the number of vacancies shall at any time not exceed five.

10. Powers, duties and functions of the Council. —
Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties, and functions of the Council shall be —

(a) to maintain the register, and to provide for the registration of medical practitioners;

(b) to hear and decide appeals from any decision of the Registrar;

(c) to prescribe a code of ethics for regulating the professional conduct of practitioners;

(d) to reprimand a practitioner, or to suspend or remove him from the register, or to take such disciplinary action against him as may, in the opinion of the Council, be necessary or expedient;

(e) to exercise such other powers, perform such other duties and discharge such other functions, as are laid down in this Act, or as may be prescribed.

11. *Executive Committee.* — (1) The Council shall, as soon as may be, constitute an Executive Committee consisting of the President ex-officio, the Vice-President ex-officio, the Director of Health Services, ex-officio, and the Dean or Director, Goa Medical College, ex-officio, and such number of other members, elected by the Council from amongst its members as may be prescribed.

(2) The term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee shall be such as may be prescribed.

(3) In addition to the powers, duties and functions conferred, imposed and entrusted by this Act, the Executive Committee shall exercise such powers, perform such duties and discharge such functions of the Council as may be delegated to it by rules or entrusted to it from time to time, by the Council.

12. *Fees and allowances to members of Council and Executive Committee.* — There shall be paid to the President, Vice-President and other members of the Council, and to the members of its Executive Committee, such fees and allowances for attendance at meetings, and such reasonable travelling allowance, as shall from time to time be prescribed.

13. *Income and expenditure of Council.* — (1) The income of the Council shall consist of —

(a) fees received from the practitioners;

(b) grants received from the Government, if any; and

(c) any other sums received by the Council.

(2) It shall be competent for the Council to incur expenditure for the following purposes, namely:—

(a) salaries and allowances of the Registrar and the staff maintained by the Council;

(b) fees and allowances paid to the members of the Council and the Executive Committee;

(c) remuneration paid to the assessors; and

(d) such other expenses as are necessary for performing the duties and discharging the functions under this Act.

14. *Appointment of Registrar of Council, his duties and functions.*— (1) The Council shall, with the previous sanction of the Government, appoint a Registrar.

(2) The Executive Committee may from time to time grant leave to the Registrar:

Provided that, if the period of leave does not exceed one month, the leave may be granted by the President.

(3) During any temporary vacancy in the office of the Registrar due to leave or any other reason, the Executive Committee may, with the previous sanction of the Government, appoint another person to act in his place, and any person so appointed shall for the period of such appointment, be deemed to be the Registrar for the purposes of this Act:

Provided that, when the period of such vacancy does not exceed one month, the appointment may be made by the President, who shall forthwith report such appointment to the Executive Committee, and the Government.

(4) The Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him.

(5) Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.

(6) The Registrar shall be the Secretary and the Executive Officer of the Council. He shall attend all meetings of the Council, and of its Executive Committee, and shall keep minutes of the names of

members present and of the proceedings at such meetings.

(7) The accounts of the Council shall be kept by the Registrar, in the prescribed manner.

(8) The Registrar shall have such supervisory powers over the staff as may be prescribed, and may perform such other duties and discharge such other functions as may be specified in this Act or as may be prescribed.

(9) The Registrar appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

15. Other employees of Council. — (1) The Council may appoint such officers and servants other than the Registrar, as it may deem necessary for performing its duties and discharging its functions under this Act:

Provided that the number and designation of such officers and servants and their salaries and allowances shall be determined by the Council, with the previous sanction of the Government.

(2) Notwithstanding anything contained in subsection (1), but, subject to such financial limit as may be laid down in this behalf by the Council, it shall be competent for the Executive Committee to create temporary posts of clerks or servants and to make appointments thereto, to meet any temporary increase in work, or to carry out any work of a seasonal character.

(3) The other conditions of service of the officers and servants of the Council shall be such as may be prescribed.

(4) The officers and servants of the Council appointed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

CHAPTER III

Preparation and Maintenance of Register

16. Preparation of register. — (1) As soon as may be after the appointed day, the Registrar shall pre-

pare and maintain thereafter a register of medical practitioners for the State of Goa, in accordance with the provisions of this Act.

(2) The register shall be in such form and may be divided into such parts, as may be prescribed. The register shall include the full name, address and qualifications of the registered practitioner, the date on which each qualification was obtained and such other particulars as may be prescribed.

(3) Any person who possesses any of the qualifications specified in the First, Second or Third Schedule to the Indian Medical Council Act, 1956 (Central Act 102 of 1956) shall, subject to any conditions laid down by or under the Indian Medical Council Act, 1956 (Central Act 102 of 1956) at any time on an application made in the prescribed form to the Registrar and on payment of a fee of rupees five hundred and on presentation of his degree or diploma, be entitled to have his name entered in the register:

Provided that, the name of an applicant who is unable to present his degree or diploma may be entered in the register, if he satisfies the President that he holds such degree or diploma but cannot for sufficient cause present the same with his application.

(4) The name of every person —

(a) who on the day immediately preceding the appointed day stands registered in the Directorate of Health Services of the Government of Goa under the Decreto No. 34417 dated 21-2-1945 (Art. 130) as in force in the State of Goa shall be entered in the register prepared under this Act, without such person being required to make an application or to pay any fee for this purpose.

(b) Notwithstanding anything contained in clause (a), within a period of three months from the appointed day or such further period as the Government may allow, the Registrar shall publish a general notice in the Official Gazette and in such newspapers as the Council may select, in such form as may be prescribed and send individual notice by registered post to every such person at his last known address in such form as may be prescribed, calling upon every such person to pay to the Registrar in the prescribed

manner a fee of rupees two hundred if he desires to continue his name on the register under this Act. The name of every such person who pays such fee before the expiry of the period of two months from the date of publication of the general notice in the Official Gazette shall be continued on the register, without such person being required to make an application or to pay any other fee for this purpose. If such fee is not paid within time, the Registrar shall remove the name of the defaulter from the register:

Provided that, if any application for continuance of the name so removed is made to the Registrar within a period of six months from the last date on which fee should have been paid, the name so removed may be re-entered in the register on payment of a fee of two hundred rupees.

(5) After the last date for payment of the fee of rupees two hundred under clause (b) of the last preceding sub-section has expired and the register prepared in accordance with the foregoing provisions is ready, the Registrar shall publish a notice in the Official Gazette and such newspapers as the Council may select, about the register having been prepared and the register shall come into force from the date of publication of such notice in the Official Gazette.

(6) Every registered practitioner shall be given a certificate of registration in the prescribed form. The registered practitioner shall display the certificate of registration in a conspicuous part in the place of his practice and if he has more than one such place, in any one of them.

17. *Special procedure for registration in certain cases.* — (1) No person who possesses a medical qualification granted by any authority in any place outside the territory of India (other than the qualification specified in the Second Schedule or Part II of the Third Schedule to the Indian Medical Council Act, 1956) (Central Act 102 of 1956), shall be registered under this Act, unless the procedure specified in sub-section (2) has been followed.

(2) Any person, who holds any such medical qualification may apply to the Council for registration by giving a correct description of his

qualification, with the dates on which they were granted and by presentation of his degree or diploma. If the Council is satisfied that the degree or diploma held by the applicant is such as to secure the possession by the applicant of the requisite knowledge and skill for efficient practice as a medical practitioner, the Council may, with the previous approval of the Executive Committee of the Medical Council of India constituted under the Indian Medical Council Act, 1956 (Central Act 102 of 1956) and on payment of a fee of five hundred rupees, enter his name in the register if the applicant is a citizen of India and if the applicant is not such a citizen enter his name in the register, subject to such conditions as the Council may deem fit to impose.

18. *Persons who may not be registered.* — Notwithstanding anything contained in sections 16 and 17, no person, whose name has been removed from any register kept under this Act or any other law for the time being in force in India regulating the registration of medical practitioners on the ground of professional misconduct, shall be entitled to have his name entered in the register, unless his name is duly ordered to be restored to the register from which it was so removed.

19. *Fee for and certificate of provisional registration.* — (1) Any person who desires to be registered provisionally under section 25 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956), shall make an application in the prescribed form to the Registrar and shall pay a fee of two hundred rupees.

(2) Every person whose name is entered in the register under sub-section (1), shall be given a certificate of provisional registration in the prescribed form. Such certificate shall remain in force for such period as may be specified therein.

20. *Maintenance of register.* — (1) It shall be the duty of the Registrar to make entries in the register, from time to time, to revise the same and to issue certificates of registration in accordance with the provisions of this Act and the rules made thereunder.

(2) The names of registered practitioners who die or whose names are directed to be removed from the register under section 22, shall be removed therefrom.

(3) Any person whose name is entered in the register and who subsequent to his registration desires to record in the register any change in his name, shall on an application made in this behalf and on payment of the prescribed fee be entitled to have such change in his name recorded in the register.

(4) Subject to the provisions of section 26 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956), any person whose name is entered in the register and who subsequent to his registration obtains any additional qualification specified in any of the Schedules to the Indian Medical Council Act, 1956 (Central Act 102 of 1956), shall on an application made in this behalf, and on payment of the prescribed fee, be entitled to have an entry stating such additional qualification made against his name in the register.

(5) The Registrar may, on an application in that behalf and on payment of the prescribed fee, issue a duplicate certificate.

21. Publication of list of registered practitioners.

— (1) At such time after the publication of the notice under sub-section (5) of section 16 as the Council deems fit and thereafter every five years, the Registrar shall cause to be printed and published a correct list of all persons for the time being entered in the register.

(2) The Registrar shall cause to be printed and published annually on or before a date to be decided by the Executive Committee, an addendum and a corrigendum to the list published under sub-section (1) showing —

(a) the names of all persons for the time being entered or re-entered in the register and not included in any subsisting list already printed and published;

(b) the names of all practitioners included in any subsisting list, whose names have since been removed on account of any reason whatsoever from and not re-entered in, the register; and

(c) any other amendments to the subsisting list.

(3) The form of the list published under sub-section (1), the particulars to be included therein, and the manner of its publication, shall be such as may be prescribed.

(4) A copy of the list referred to in sub-section (1) shall be evidence in all Courts, and in all judicial or quasi-judicial proceedings, that the persons therein specified are registered according to the provisions of this Act and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered according to the provisions of this Act:

Provided that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.

22. *Removal of names from register.*— (1) If a registered practitioner has been, after due inquiry held by the Council or by the Executive Committee in the prescribed manner, found guilty of any misconduct by the Council, the Council may —

(a) issue a letter of warning to the practitioner, or

(b) direct the name of such practitioner —

(i) to be removed from the register for such period as may be specified in the direction, or

(ii) to be removed from the register permanently.

Explanation.— For the purpose of this section, “misconduct” shall mean —

(i) the conviction of a registered practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974); or

(ii) the conviction under the Army Act, 1950 (Central Act 46 of 1950) of a registered practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974); or

(iii) any conduct which, in the opinion of the Council is infamous in relation to the medical profession particularly under any Code of Ethics prescribed by the Council or by the Me-

dical Council of India constituted under the Indian Medical Council Act, 1956 (Central Act 102 of 1956) in this behalf.

(2) If the name of any such practitioner is also entered in the register or the list maintained by the Directorate of Health Services, Goa, under Decreto No. 34417 of 21-2-1945 (Art. 130), it shall be the duty of the Registrar to give intimation of such removal to the authority entitled to maintain the said register or the said list.

(3) If the name of a registered practitioner is also entered in the register or the list, as the case may be, maintained under any of the laws referred to in sub-section (2) and it is removed from the said register or the said list, the Council shall if such removal comes or is brought to its notice, also remove the name of such registered practitioner from the register under this Act.

(4) The Council may, on sufficient cause being shown, direct at any subsequent date that the name of a practitioner removed under sub-section (1) or (3) shall be re-entered in the register on such conditions and on payment of such fee, as may be prescribed.

(5) The Council may, of its own motion, or on the application of any person, after due and proper inquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register if, in the opinion of the Council, such entry was fraudulently or incorrectly made.

(6) In holding any inquiry under this section, the Council or the Executive Committee, as the case may be, shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) issuing of commissions for the examination of witnesses.

(7) All inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (Central Act 45 of 1860).

(8) (a) For the purpose of advising the Council or the Executive Committee, as the case may be, on any question of law arising in any inquiry under this section, there may in all such inquiries be an assessor, who has been for not less than ten years —

(i) an advocate enrolled under the Advocates Act, 1961 (Central Act 25 of 1961) in force; or

(ii) an attorney of a High Court.

(b) Where an assessor advises the Council, or the Executive Committee, on any question of law as to evidence, procedure or any other matter, he shall do so in the presence of every party or person representing a party, to the inquiry who appears thereat or if the advice is tendered after the Council or the Executive Committee has begun to deliberate as to its findings, every such party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed if in any case the Council or the Executive Committee does not accept the advice of the assessor on any such question as aforesaid.

(c) Any assessor under this section may be appointed either generally, or for any particular inquiry or class of inquiries, and shall be paid the prescribed remuneration.

23. *Renewal of registration.* — Notwithstanding anything contained in sections 16 and 21, —

(a) on such date after the date of publication of the notice under sub-section (5) of section 16, as the Executive Committee may with the previous sanction of the Government decide, and every five years thereafter, the Registrar shall cause two notices in the prescribed form to be published, at an interval of not less than thirty days, in the Official Gazette calling upon in the manner provided in clause (b) all registered practitioners to make an application to the Registrar for the continuance of their names on the register;

(b) The Registrar shall, after the publication of the first notice under clause (a), send a notice by registered post enclosing therewith the prescribed form of application to the registered practitioners at their address as entered in the register, calling upon them to return the application to the Registrar for the continuance of their names on the

register within forty five days of the date of the notice, together with a fee of rupees fifty. If any of the registered practitioners fail to return such application within the time specified, the Registrar shall issue a further notice to such registered practitioner by registered post after the publication of the second notice under clause (a) enclosing therewith the prescribed form of application calling upon him to return the application to the Registrar for the continuance of his name on the register within thirty days of the date of the further notice, together with a fee of rupees one hundred.

(c) If the application is not made on or before the date fixed by the further notice sent by registered post under clause (b), the Registrar shall remove the name of the defaulter from the register and shall inform him of such removal by registered post:

Provided that, if any application for continuance of the name so removed is made within a period of six months from the date fixed by the said notice sent by registered post under clause (b), the name so removed may be re-entered in the register on payment of a fee of rupees two hundred.

24. *Appeals.* — (1) Any person aggrieved by any decision of the Registrar under this Act may, within a period of one month from the date on which the decision is communicated to him, appeal to the Council, which shall hear and determine the appeal in the prescribed manner.

(2) Save as otherwise provided in the Indian Medical Council Act, 1956 (Central Act 102 of 1956), every decision of the Council under this Act shall be final.

25. *Rights of registered practitioners.* — Notwithstanding anything contained in any law for the time being in force —

(i) the expression “legally qualified medical practitioner” or “duly qualified medical practitioner” or any word importing a person recognised by law as a medical practitioner or member of the medical profession shall, in all Acts of the State

Legislature and in all Central Acts (in their application to the State of Goa) in so far as such Acts relate to any matters specified in List II or List III in the Seventh Schedule to the Constitution of India, include a practitioner whose name is entered in the register under this Act;

(ii) every registered practitioner shall be exempt, if he so desires, from serving on an inquest under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

26. *General provisions applicable to medical practitioners.*—The provisions of this Act are in addition to, and not in derogation of, the provisions of the Indian Medical Council Act, 1956 (Central Act 102 of 1956).

CHAPTER IV

Miscellaneous

27. *Penalty for falsely claiming to be registered.*—If any person whose name is not for the time being entered in the register falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall, on conviction, be punished with fine which may extend to five thousand rupees.

28. *Power to make rules.*—(1) The Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) under section 3, the time, place and manner of holding elections of members, the President and the Vice-President;

(b) under section 8, the manner of convening, holding and conducting meetings of the Council;

(c) under section 10, the other powers, duties and functions of the Council;

(d) under section 11, the number of members of the Executive Committee, their term of office, the manner of filling casual vacancies, the pro-

cedure to be followed and the other powers, duties and functions of the Committee;

(e) under section 12, the fees and allowances to the members;

(f) under section 14, the salary, allowances and other conditions of service of the Registrar, the manner of keeping accounts and the supervisory powers and other duties and functions of the Registrar;

(g) under section 15, the other conditions of service of the staff of the Council;

(h) under section 16, the form of register, the parts into which it shall be divided and the other particulars it shall include, the forms of application and of general and individual notices, the manner of paying fees, the form of certificate of registration;

(i) under section 19, the form of application for provisional registration and of certificate for such registration;

(j) under section 20, the fee for recording change of name or additional qualification in the register or for issue of duplicate certificate of registration.

(k) under section 21, the form of list of registered practitioners, the particulars to be included and the manner of its publication;

(l) under section 22, the manner of holding inquiries and the conditions and fee payable for re-entering a name in the register and the remuneration to be paid to an assessor;

(m) under section 23, the forms of notices and of application for continuance of names on the register;

(n) under section 24, the manner of hearing and determining appeal by the Council;

(o) any reasonable fees which may be levied by the Council in addition to those expressly provided for in this Act;

(p) any other matter which is to be or may be prescribed under this Act.

29. *Control of Government.* — (1) If at any time it appears to the Government that the Council

or its President or Vice-President has failed to exercise or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has ceased to function, or has become incapable of functioning, the Government may, if it considers such failure, excess, abuse or incapacity to be of a serious character, notify the particulars thereof to the Council or the President or the Vice-President, as the case may be. If the Council or the President or the Vice-President fails to remedy such failure, excess, abuse or incapacity within such reasonable time as the Government may fix in this behalf, the Government may remove the President, or Vice-President, or dissolve the Council, as the case may be, and in case of dissolution of the Council, cause all or any of the powers, duties and functions of the Council to be exercised, performed and discharged by such persons and for such period not exceeding two years, as it may think fit, and shall take steps to constitute a new Council.

(2) Notwithstanding anything contained in this Act, or in the rules made thereunder, if at any time it appears to the Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the duties or functions under this Act, has not been validly constituted or appointed, the Government may cause any of such powers, duties or functions to be exercised or performed by such persons in such manner and for such period not exceeding six months and subject to such conditions, as it thinks fit.

CHAPTER V

Repeal and Transitional Provisions

30. *Repeal and savings.* — (1) Subject to the provisions of this Chapter, on the appointed day, the Decreto No. 34417 dated 21-2-1945 (Art. 130) shall stand repealed.

(2) Unless the Government otherwise directs, any rule or regulation made under the Decreto repealed by sub-section (1) shall, from the appointed day, cease to be in force.

(3) The registers kept or maintained or deemed to be kept or maintained under the Decreto so repealed which are in force immediately before the appointed day, shall be deemed to be the registers

prepared under this Act, until the register prepared under section 16 comes into force under sub-section (5) thereof.

(4) Anything done or any action taken (including any appointment or application made, notification, order or direction issued or fee levied or certificate or notice given) under the Decreto so repealed and subsisting immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act, and unless the Government otherwise directs, be deemed to have been made, issued, levied or given under the relevant provisions of this Act, and be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

31. *Constitution of new Council.* — (1) Notwithstanding anything contained in section 3, the Government shall on the appointed day, by a notification in the Official Gazette, constitute a Council in the manner specified in sub-section (3) of section 3:

Provided that, the members to be elected under clause (e) and (f) of that sub-section shall also be nominated by the Government from among the persons qualified to be elected under the relevant clause of that sub-section.

(2) The President and the Vice-President of the Council constituted under sub-section (1) shall, notwithstanding anything contained in sub-section (4) of section 3, be nominated by the Government.

(3) The Council constituted under this section shall be deemed to be a Council constituted under section 3 and the President, the Vice-President and the members of the Council shall, notwithstanding anything contained in section 4, hold office for a period of three years from the date of publication of the notification under sub-section (2) or till a Council is duly constituted in accordance with the provisions of section 3, whichever is earlier:

Provided that, the period of three years may be extended by the Government by a further period not exceeding one year at a time, and two years in the aggregate.

(4) If a vacancy previous to the expiry of the term occurs in the office of the President, the Vice-President or a member of the Council constituted under sub-section (1) by reason of death, resignation, removal, disqualification or disability of such President, Vice-President or member or due to any reason, the vacancy shall be filled by the Government by nomination of any other person qualified to fill the vacancy under the relevant clause of sub-section (3) of section 3 and the person so nominated shall hold office for the unexpired portion of the term of the member in whose place he is nominated.

32. *Provision regarding Registrars.*— (1) The Government shall, notwithstanding anything contained in sub-section (1) of section 14, on the appointed day, appoint the Registrar on such terms and conditions as the Government may determine:

Provided that, nothing contained in this section shall affect the powers of the Council to fill the subsequent vacancies of Registrar under sub-section (1) of section 14.

33. *Powers to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires but not later than two years from the appointed day, by order do anything which appears to it necessary or expedient for the purpose of removing the difficulty.

Statement of Objects and Reasons

This Bill seeks to establish a State Medical Council so as to provide facilities to the Medical Practitioners of this State for registration thereunder as till date the Medical Practitioners of Goa were registered under the Maharashtra State Medical Council Act, 1965 thereby causing much inconvenience to the said Medical Practitioners to comply with the requisite formalities.

This Bill also seeks to control and make provision to regulate registration of persons practising modern scientific medicine in the State of Goa.

Financial Memorandum

Under the Bill, the duties are to be performed by the State Medical Council which may appoint the required staff, if necessary. No financial burden is cast on Government and the Council would be able to defray its expenses from the income it will collect on the registration. The Council may seek for grant in aid which Government may like to provide but at this stage cannot be ascertained whether such assistance would be required to be provided or not.

Memorandum on Delegated Legislation

Section 28 of the Bill enables the Government to frame rules under the Act. This delegation is of normal character.

Panaji
21st March, 1991.

PANDURANG RAUT
Minister for Health

Assembly Hall
Panaji
21st March, 1991.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa