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Medical Registration (Amendment) Bill

Bill No. 30/2020.

Read the first time on 3 September 2020.

A BILL

i n t i t u l e d

An Act to amend the Medical Registration Act (Chapter 174 of the 2014 Revised Edition) and to make a consequential amendment to the Supreme Court of Judicature (Amendment) Act 2019 (Act 40 of 2019).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Medical Registration (Amendment) Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Medical Registration Act (called in this Act the principal Act) is amended —

(a) by deleting the words “section 40” in the definition of “Complaints Committee” and substituting the words “section 44”;

(b) by deleting the words “section 38” in the definition of “Complaints Panel” and substituting the words “section 39”;

(c) by deleting the words “by the Medical Council under section 50” in the definition of “Disciplinary Tribunal” and substituting the words “by the President of the Disciplinary Commission under section 58 or the Chief Justice under section 59”;

(d) by deleting the words “section 57” in the definition of “Health Committee” and substituting the words “section 59H”;

(e) by deleting the words “section 59A” in the definition of “Interim Orders Committee” and substituting the words “section 59J”;

(f) by inserting, immediately after the definition of “Interim Orders Committee”, the following definitions:

““lay person” means any person who —

(a) has rendered distinguished public service, or has distinguished himself in any field; and

(b) is not a legal professional or a registered medical practitioner;

“legal professional” means any person who —

(a) has at any time held but no longer holds, office as a Judge or Judicial Commissioner of the Supreme Court;

(b) is an advocate and solicitor of at least 15 years’ standing; or

(c) is a Legal Service Officer who has in the aggregate at least 15 years of full-time employment in the Singapore Legal Service;

“Legal Service Officer” means an officer in the Singapore Legal Service;”;

(g) by inserting, immediately after the definition of “Registrar”, the following definition:

““Registrar of the Supreme Court” includes the Deputy Registrar and an Assistant Registrar;”;
and

(h) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) A reference in this Act to the High Court is, on or after the date of commencement of the Supreme Court of Judicature (Amendment) Act 2019 (Act 40 of 2019), a reference to the General Division of the High Court.

(3) A reference in this Act to a Judge of the Supreme Court is, on or after the date of commencement of the Supreme Court of Judicature (Amendment) Act 2019, a reference to a Supreme Court Judge.

(4) A reference in this Act to a Judicial Commissioner of the Supreme Court is, on or after the date of commencement of the Supreme Court of

Judicature (Amendment) Act 2019, a reference to a Judicial Commissioner.”.

Amendment of section 4

3. Section 4 of the principal Act is amended —

5 (a) by deleting subsections (1) and (2) and substituting the following subsections:

 “(1) The Medical Council consists of —

 (a) the Director of Medical Services;

10 (b) a member of the Academy of Medicine Singapore appointed by the Minister, who —

 (i) is the Master of the Academy; or

15 (ii) is a member of the council of the Academy nominated by the Master of the Academy;

 (c) a member of the College of Family Physicians Singapore appointed by the Minister, who —

 (i) is the President of the College; or

20 (ii) is a member of the council of the College nominated by the President of the College;

25 (d) a member of the Singapore Medical Association appointed by the Minister, who —

 (i) is the President of the Association; or

 (ii) is a member of the council of the Association nominated by the President of the Association;

30 (e) a member of the faculty of each prescribed medical school in Singapore appointed by the Minister who —

- (i) is the Dean of the prescribed medical school; or
- (ii) is nominated by the Dean;
- (f) 12 registered medical practitioners resident in Singapore who are elected by the fully registered medical practitioners resident in Singapore; and
- (g) 8 registered medical practitioners resident in Singapore who are appointed by the Minister.

(2) The members of the Medical Council mentioned in subsection (1)(b) to (g) are appointed or elected for a term not exceeding 3 years and are eligible for re-appointment or re-election, as the case may be.”; and

(b) by deleting the words “(1)(b) or (d)” in subsection (4) and substituting the words “(1)(b), (c), (d), (e) or (g)”.

Amendment of section 6

4. Section 6(1) of the principal Act is amended by deleting the words “section 4(1)(c)” and substituting the words “section 4(1)(f)”.

Amendment of section 8

5. Section 8 of the principal Act is amended by deleting the words “10 years” in paragraph (b) and substituting the words “8 years”.

Repeal and re-enactment of section 37

6. Section 37 of the principal Act is repealed and the following section substituted therefor:

“Cancellation of practising certificates

37.—(1) The Medical Council may cancel any practising certificate issued to a registered medical practitioner if the Medical Council is satisfied that —

(a) the practising certificate has been obtained by the registered medical practitioner by fraud, or the registered medical practitioner has, in connection with the application for the practising certificate, made a statement or provided any information or document that is false, misleading or inaccurate in a material particular; or

(b) the registered medical practitioner fails, or has failed, to comply with any requirement prescribed in connection with the practising certificate (including any requirement that every registered medical practitioner must comply with in order to continue holding the practising certificate).

(2) Where the Medical Council decides under subsection (1) to cancel a practising certificate, the Medical Council must serve on the registered medical practitioner a notice of the decision.

(3) A decision by the Medical Council under subsection (1) takes effect on the date the notice under subsection (2) is served on the registered medical practitioner concerned, or on a later date specified in the notice.

(4) A registered medical practitioner who is aggrieved by the cancellation of his practising certificate under subsection (1) may, within 30 days after receiving the notice mentioned in subsection (2), appeal to the Minister whose decision is final.

(5) An appeal against a decision to cancel a registered medical practitioner's practising certificate does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister, the decision appealed against must be complied with until the determination of the appeal.

(6) Where a registered medical practitioner has had his name removed from any register (other than the Register of Specialists or the Register of Family Physicians) under this Act or has had his registration suspended under this Act, any practising certificate issued to him is deemed cancelled.

(7) The cancellation or deemed cancellation of a practising certificate under this section does not affect —

- (a) the enforcement by any person of any right or claim against the registered medical practitioner; or
- (b) the enforcement by the registered medical practitioner of any right or claim against any person.

(8) A registered medical practitioner whose practising certificate is cancelled or deemed cancelled under this section must, as soon as practicable after receiving notice of the cancellation, removal from a register or suspension of registration (as the case may be), surrender his practising certificate to the Medical Council.

(9) To avoid doubt, this section does not affect the operation of Part 7.”.

Repeal and re-enactment of Part 7

7. Part 7 of the principal Act is repealed and the following Part substituted therefor:

“PART 7

DISCIPLINARY PROCEEDINGS AND INQUIRIES

Division 1 — Voluntary removal, suspension, etc.

Voluntary removal, suspension, etc.

38.—(1) A registered medical practitioner may request the Medical Council to take one or more of the actions in subsection (2) if the registered medical practitioner believes that —

- (a) his fitness to practise medicine is impaired by reason of his physical or mental condition; or
- (b) the quality of the professional services provided by him does not meet the standard which is reasonable to expect of a medical practitioner.

(2) Upon receiving a request under subsection (1), the Medical Council may, with the agreement of the registered medical practitioner, do one or more of the following:

- (a) remove the registered medical practitioner's name from the appropriate register;
- (b) suspend the registration of the registered medical practitioner in the appropriate register for a period not exceeding 3 years;
- (c) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners — remove the registered medical practitioner's name from Part I of that Register and register him instead as a medical practitioner with conditional registration in Part II of that Register, and section 21(4), (6), (7), (8) and (9) applies accordingly;
- (d) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners — impose additional appropriate conditions or restrictions on his registration or vary the conditions or restrictions already imposed under section 21, 23 or 24;
- (e) suspend or cancel the registered medical practitioner's practising certificate.

(3) However, the Medical Council must not take any action under subsection (2) in relation to a registered medical practitioner if —

- (a) the Medical Council believes that there is evidence of any matter mentioned in section 40(3)(a) or (4)(a), (b) or (c); or
- (b) an inquiry under Division 2 has started and is pending against the registered medical practitioner.

(4) Subsections (2) and (3) also apply where the Medical Council has given a notification to the registered medical practitioner under section 40(6)(b), except that if the Medical Council and the registered medical practitioner are unable to agree on the course of action to be taken under subsection (2)(a) to (e), the Medical Council must proceed to refer the matter to the chairman of the Complaints Panel under section 40(6)(a). 5

Division 2 — Inquiries into complaints against and information about registered medical practitioners

Appointment of Complaints Panel 10

39.—(1) For the purpose of enabling Inquiry Committees, Complaints Committees, Review Committees, Disciplinary Tribunals and Interim Orders Committees to be constituted in accordance with this Part, the Medical Council must appoint a panel (called in this Act the Complaints Panel) consisting of — 15

- (a) at least 10 members of the Medical Council;
- (b) at least 10 registered medical practitioners each of whom is of at least 8 years' standing and is not a member of the Medical Council; and
- (c) at least 6 other persons nominated by the Minister, each of whom is either — 20
 - (i) a legal professional; or
 - (ii) a lay person.

(2) The term of office of a member of the Complaints Panel mentioned in subsection (1)(a) expires at the end of the member's term of office as a member of the Medical Council. 25

(3) A member of the Complaints Panel mentioned in subsection (1)(b) or (c)(i) or (ii) is appointed for a term of 3 years and is eligible for re-appointment.

(4) The Medical Council may at any time remove from office any member of the Complaints Panel or fill any vacancy in its membership. 30

(5) The Medical Council must appoint, from among the members of the Complaints Panel who are members of the Medical Council, the chairman and the deputy chairman of the Complaints Panel.

(6) The chairman and deputy chairman appointed under subsection (5) must be registered medical practitioners.

Complaints against registered medical practitioners, etc.

40.—(1) A person (called in this Part the complainant) may make a complaint against, or provide information about, any registered medical practitioner to the Medical Council on any matter mentioned in subsection (3) or (4).

(2) Every complaint against, or information about, any registered medical practitioner mentioned in subsection (1) must —

(a) be in writing;

(b) be supported by a statutory declaration unless the complaint or information is made or provided by a public officer or the Medical Council; and

(c) be accompanied by every relevant document and information that is in the possession of the complainant.

(3) The complaint mentioned in subsection (1) is a complaint —

(a) relating to —

(i) the conduct of a registered medical practitioner in his professional capacity; or

(ii) a registered medical practitioner's improper act or conduct which brings disrepute to his profession; or

(b) that the professional services provided by a registered medical practitioner are not of the quality that is reasonable to expect of him.

(4) The information mentioned in subsection (1) is information relating to —

- (a) the conviction (whether in Singapore or elsewhere) of a registered medical practitioner of an offence implying a defect in character that makes him unfit to practise medicine; 5
- (b) the death of any patient resulting from the conduct of a registered medical practitioner in his professional capacity;
- (c) an adverse finding against a registered medical practitioner by a Coroner at an inquiry under the Coroners Act (Cap. 63A) into the death of a patient of the registered medical practitioner; or 10
- (d) the physical or mental fitness of a registered medical practitioner to practise medicine. 15

(5) Subject to sections 41 and 42, the Medical Council must within 2 weeks after receipt of a complaint or any information under subsection (1) that is made in accordance with subsection (2), other than a complaint or information touching on the matters mentioned in section 32, refer the complaint or information (as the case may be) to the chairman of the Complaints Panel for the appointment of an Inquiry Committee. 20

(6) Subject to sections 41 and 42, the Medical Council may, on its own motion —

- (a) if the Medical Council believes that there is evidence of any matter mentioned in subsection (3) or (4) — make a complaint or refer any information about the registered medical practitioner to the chairman of the Complaints Panel for the appointment of a Complaints Committee; or 25 30
- (b) if the Medical Council believes that there is evidence of any matter mentioned in subsection (3)(b) or (4)(d) — instead of proceeding under paragraph (a), notify the registered medical practitioner of the evidence and, with the written agreement of the 35

registered medical practitioner, proceed under section 38(2)(a) to (e).

(7) Despite subsections (5) and (6), the Medical Council may immediately refer a complaint or any information directly to the President of the Disciplinary Commission for the appointment of a Disciplinary Tribunal where it relates to any of the following:

- (a) any matter mentioned in subsection (4)(a), (b) or (c);
- (b) any other matter that, in the opinion of the Medical Council, involves a serious threat to the health and safety of any patient.

(8) Where any complaint or information about a registered medical practitioner is referred to the chairman of the Complaints Panel under subsection (5) or (6) or to the President of the Disciplinary Commission under subsection (7), the Medical Council must —

- (a) inform the registered medical practitioner that it has done so; and
- (b) provide the registered medical practitioner with a copy of —
 - (i) the complaint or information; and
 - (ii) any statutory declaration that has been made in support of the complaint or information,

unless the Medical Council is of the view that, based on the facts and evidence before it, there are compelling reasons not to do so.

(9) Where any information mentioned in subsection (4)(d) is referred by the Medical Council to the chairman of the Complaints Panel, the chairman of the Complaints Panel must within 2 weeks after the referral —

- (a) if the chairman is satisfied, based on any evidence given in support of the information, that a formal inquiry is necessary to determine the physical or mental fitness of the registered medical practitioner to

practise medicine — refer the information to a Health Committee; or

(b) in any other case —

- (i) proceed in accordance with Division 3 where the referral is made under subsection (5); or
- (ii) proceed in accordance with Division 4 where the referral is made under subsection (6)(a) or section 42(3)(b).

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Limitation period for complaints, etc.

41.—(1) The Medical Council must not refer a complaint or information to the chairman of the Complaints Panel under section 40(5) if the complaint is first made or the information is first provided to the Medical Council after the expiration of the period of —

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- (a) 6 years after the date of the act, conduct or occurrence that is the subject matter of the complaint or information; or
- (b) 6 years after the earliest date on which the complainant had knowledge of the act, conduct or occurrence, or could with reasonable diligence have discovered it, if that period expires later than the period mentioned in paragraph (a).

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(2) The Medical Council must not make a complaint or refer any information to the chairman of the Complaints Panel under section 40(6)(a) after the expiration of the period of —

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- (a) 6 years after the date of the act, conduct or occurrence that is the subject matter of the complaint or information; or
- (b) 6 years after the earliest date on which the Medical Council had knowledge of the act, conduct or occurrence, or could with reasonable diligence have discovered it, if that period expires later than the period mentioned in paragraph (a).

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(3) Where the Medical Council refers any complaint or any information to the President of the Disciplinary Commission under section 40(7) for the appointment of a Disciplinary Tribunal after the expiration of the period of —

(a) 6 years after the date of the act, conduct or occurrence that is the subject matter of the complaint or information; or

(b) 6 years after the earliest date on which the Council had knowledge of the act, conduct or occurrence, or could with reasonable diligence have discovered it, if that period expires later than the period mentioned in paragraph (a),

the President of the Disciplinary Commission must not appoint a Disciplinary Tribunal for the matter unless he is of the opinion that it is in the public interest to do so.

(4) In this section, “knowledge” includes the knowledge that a person may reasonably have been expected to acquire —

(a) from facts observable or ascertainable by the person; or

(b) from facts ascertainable by the person with the help of appropriate expert advice which it is reasonable for the person to seek.

Complaints made, etc., after expiration of limitation period

42.—(1) Where any complaint or information is made or provided to the Medical Council under section 40(1) after the expiration of the period mentioned in section 41(1), the Medical Council must, within 2 weeks after receipt of the complaint or information, refer the complaint or information to the President of the Disciplinary Commission for an assessment mentioned in subsection (3)(a).

(2) The Medical Council must as soon as possible refer any complaint or information mentioned in section 40(6)(a) in respect of which the period mentioned in section 41(2) has

expired to the President of the Disciplinary Commission for an assessment mentioned in subsection (3)(a).

(3) Where the Medical Council refers any complaint or information to the President of the Disciplinary Commission for an assessment under subsection (1) or (2) — 5

(a) the President of the Disciplinary Commission must, within 3 weeks after the referral, assess whether it is in the public interest to refer the complaint or information to the chairman of the Complaints Panel despite the expiration of the period mentioned in section 41(1) or (2); and 10

(b) where the President of the Disciplinary Commission notifies the Medical Council that he is of the opinion that it is in the public interest to refer the complaint or information to the chairman of the Complaints Panel, the Medical Council must, despite section 41(1) or (2) (as the case may be) and within 2 weeks after receipt of the notice, refer the complaint or information or make the complaint (as the case may be) to the chairman of the Complaints Panel. 15 20

Division 3 — Inquiry Committees

Inquiry by Inquiry Committee

43.—(1) Where any complaint or information is referred to the chairman of the Complaints Panel under section 40(5) (other than information mentioned in section 40(4)(d) where section 40(9)(a) or (b)(ii) applies), the chairman of the Complaints Panel must, within 2 weeks after the referral — 25

(a) appoint an Inquiry Committee consisting of —

(i) a chairman, being a member of the Complaints Panel who is a registered medical practitioner; and 30

(ii) one other member of the Complaints Panel who is a registered medical practitioner,

to inquire into the complaint or information; and

(b) refer the complaint or information to the Inquiry Committee.

(2) An Inquiry Committee may, in the course of an inquiry under subsection (1), require the complainant, registered medical practitioner concerned or any other person to answer any question or provide any information or document that the Inquiry Committee considers relevant for the purpose of the inquiry.

(3) An Inquiry Committee must complete its inquiry under subsection (1) within 3 weeks after the date that the complaint or information is referred to the Inquiry Committee and —

(a) if the Committee is unanimously of the opinion that the complaint or information is frivolous, vexatious, misconceived or lacking in substance — dismiss the complaint or information and give reasons for the dismissal;

(b) if the Committee is unanimously of the opinion that the complaint or information is not frivolous, vexatious, misconceived or lacking in substance and —

(i) is unanimously of the opinion that no investigation is necessary — issue a letter of advice to the registered medical practitioner; or

(ii) is unanimously of the opinion that an investigation is necessary — refer the matter to the chairman of the Complaints Panel to appoint a Complaints Committee to inquire into the matter, and direct one or more investigators to investigate the matter; or

- (c) in any other case — refer the matter to the chairman of the Complaints Panel to appoint a Complaints Committee to inquire into the matter, and direct one or more investigators to investigate the matter.

(4) The chairman of the Complaints Panel may, upon a written request by an Inquiry Committee, grant to the Inquiry Committee one (but not more than one) extension of the period mentioned in subsection (3) if the chairman is satisfied that the circumstances of the case justify the grant of the extension, except that the extension must not extend beyond the period of 6 weeks after the date that the complaint or information is referred to the Inquiry Committee.

(5) A decision of an Inquiry Committee under subsection (3) is final.

Division 4 — Complaints Committees

Appointment of Complaints Committees

44. Where any complaint or information is referred to the chairman of the Complaints Panel under section 40(6)(a), 42(3)(b) or 43(3)(b)(ii) or (c), the chairman of the Complaints Panel must, within 2 weeks after the referral —

(a) appoint a Complaints Committee consisting of —

(i) a chairman, being the deputy chairman of the Complaints Panel or a member of the Complaints Panel who is a registered medical practitioner; and

(ii) 2 other members of the Complaints Panel, one of whom is a registered medical practitioner and the other is a legal professional or lay person,

to inquire into the complaint or information; and

(b) refer the complaint or information to the Complaints Committee.

Inquiry by Complaints Committee

45.—(1) A Complaints Committee must complete its inquiry not later than 3 months after the date that the complaint or information is referred to the Complaints Committee.

5 (2) Where a Complaints Committee is of the opinion that it will not be able to complete its inquiry within the period mentioned in subsection (1), the Complaints Committee may apply in writing to the chairman of the Complaints Panel for an extension of time to complete its inquiry.

10 (3) The chairman of the Complaints Panel may, upon a written request by a Complaints Committee, grant to the Complaints Committee one (but not more than one) extension of the period mentioned in subsection (1) if the chairman is satisfied that the circumstances of the case justify the grant of the extension,
15 except that the extension must not extend beyond the period of 6 months after the date that the complaint or information is referred to the Complaints Committee.

20 (4) The Medical Council may, upon a written request by a Complaints Committee, apply to the High Court in accordance with section 59U for a further extension of time that extends beyond the period mentioned in subsection (3) for the Complaints Committee to complete its inquiry.

(5) For the purposes of conducting an inquiry, a Complaints Committee may —

25 (a) require the production for inspection by the Complaints Committee of any book, document or paper which may relate to or be connected with the subject matter of the inquiry; and

30 (b) require the complainant, registered medical practitioner concerned and any other person to give any information or evidence which may relate to or be connected with the subject matter of the inquiry (including any information in relation to any book, document or paper mentioned in paragraph (a)) —

- (i) at an attendance before the Complaints Committee;
- (ii) in writing; or
- (iii) by way of a statutory declaration or an affidavit.

(6) Any person who, without lawful excuse, refuses or fails to comply with any requirement of a Complaints Committee under subsection (5)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both. 5

(7) For the purposes of any inquiry, a Complaints Committee may — 10

- (a) where an Inquiry Committee has directed an investigation under section 43(3)(b)(ii) or (c) — refer to and rely on the report arising from that investigation; or 15
- (b) in any other case — direct one or more investigators to investigate the complaint or information to which the inquiry relates.

Findings of Complaints Committee

46.—(1) After considering any investigation report mentioned in section 51 and any report by a Performance Assessment Panel mentioned in section 52 or Fitness Assessment Panel mentioned in section 53, and upon due inquiry into the complaint or information, a Complaints Committee may, if it is of the view that a formal inquiry by a Disciplinary Tribunal or Health Committee is not necessary, take one or more of the following actions: 20 25

- (a) issue a letter of advice to the registered medical practitioner;
- (b) issue a letter of warning to the registered medical practitioner; 30

- (c) direct the registered medical practitioner to seek and undergo medical or psychiatric treatment or counselling;
- (d) direct the registered medical practitioner to undertake and complete specified further education or training within a specified period;
- (e) direct the registered medical practitioner to report, at such times, in such manner and to such person or persons as the Complaints Committee may specify, on the status of —
 - (i) the registered medical practitioner's physical or mental condition; or
 - (ii) the registered medical practitioner's medical practice;
- (f) direct the registered medical practitioner to seek and take advice, from such person or persons as the Complaints Committee may specify, on or in relation to the management of his medical practice;
- (g) with the agreement of the registered medical practitioner, request the Medical Council to do one or more of the following:
 - (i) remove the registered medical practitioner's name from the appropriate register;
 - (ii) suspend the registration of the registered medical practitioner from the appropriate register for a period not exceeding 3 years;
 - (iii) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners — remove his name from Part I of that Register and register him as a medical practitioner with conditional registration in Part II of that Register, and section 21(4), (6), (7), (8) and (9) applies accordingly;

- (iv) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners — impose additional appropriate conditions or restrictions on his registration or vary the conditions or restrictions already imposed under section 21, 23 or 24, as the case may be; 5
 - (v) suspend or cancel the registered medical practitioner's practising certificate;
 - (h) dismiss the complaint or information; 10
 - (i) give such other direction as the Complaints Committee thinks fit.
- (2) Where a Complaints Committee, based on the facts and evidence before it, determines that cause of sufficient gravity for a formal inquiry exists — 15
- (a) where the complaint or information touches on the physical or mental fitness of the registered medical practitioner to practise medicine —
 - (i) the Complaints Committee may, with the agreement of the registered medical practitioner, request the Medical Council to take one or more of the actions in subsection (3); or 20
 - (ii) in any other case — the Complaints Committee must direct the Medical Council to appoint a Health Committee to hold a formal inquiry; or 25
 - (b) in any other case — the Complaints Committee must recommend to the Medical Council that a formal inquiry be held by a Disciplinary Tribunal.
- (3) Upon receiving a request under subsection (2)(a)(i), the Medical Council may do one or more of the following: 30
- (a) remove the name of the registered medical practitioner from the appropriate register;

(b) suspend the registration of the registered medical practitioner in the appropriate register for such period not exceeding 3 years;

(c) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners — remove his name from Part I of the Register of Medical Practitioners and register him as a medical practitioner with conditional registration in Part II of that Register, and section 21(4), (6), (7), (8) and (9) applies accordingly;

(d) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners — impose additional appropriate conditions or restrictions on his registration or vary the conditions or restrictions already imposed under section 21, 23 or 24, as the case may be.

(4) Where the registered medical practitioner concerned fails to comply with a direction of a Complaints Committee under subsection (1)(c), (d), (e), (f) or (i), a Complaints Committee (whether it is the Complaints Committee that gave the direction or another Complaints Committee appointed in its place) may, if it thinks fit, recommend that a formal inquiry be held by a Disciplinary Tribunal or direct that a formal inquiry be held by a Health Committee (as the case may be) in respect of the complaint or information.

(5) Where a Complaints Committee makes a direction under subsection (2)(a)(ii) or (4) that a formal inquiry be held by a Health Committee, the Medical Council must, within one month after receipt of the Complaint Committee's direction, refer the complaint or information to a Health Committee.

(6) Where a Complaints Committee makes a recommendation under subsection (2)(b) or (4) that a formal inquiry be held by a Disciplinary Tribunal —

(a) the Complaints Committee must give reasons for its recommendation and also recommend to the Medical Council the charge or charges to be preferred against the registered medical practitioner; and

(b) the Medical Council must, within one month after receipt of the Complaints Committee's recommendation, determine whether it is appropriate for a formal inquiry to be held by a Disciplinary Tribunal.

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(7) If the Medical Council determines under subsection (6)(b) that it is not appropriate for a formal inquiry to be held by a Disciplinary Tribunal, the Medical Council must notify the complainant and registered medical practitioner of its decision and the reasons for such determination, and may take one or more of the following actions:

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(a) any action mentioned in subsection (1)(a) to (f) or (h);

(b) with the agreement of the registered medical practitioner, take one or more of the actions specified in subsection (1)(g)(i) to (v);

(c) give such other direction as the Medical Council thinks fit.

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(8) If the Medical Council determines under subsection (6)(b) that it is appropriate for a formal inquiry to be held by a Disciplinary Tribunal, the Medical Council must refer the complaint or information to the President of the Disciplinary Commission for the appointment of a Disciplinary Tribunal.

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(9) A decision of the Complaints Committee under subsection (2)(a)(ii) or (b) or (4), or of the Medical Council under subsection (6)(b), is final.

(10) A letter of advice mentioned in subsection (1)(a) that is to be issued by a Complaints Committee under that subsection or the Medical Council under subsection (7) may be issued by the chairman of the Complaints Committee or the President of the Medical Council (as the case may be) on such terms as the

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Complaints Committee or the Medical Council (as the case may be) thinks fit.

(11) Where, in the course of an inquiry, a Complaints Committee receives any information touching on, or evidence of, the conduct of the registered medical practitioner concerned which discloses an offence under any written law, the Complaints Committee must report it to the Medical Council.

(12) A Complaints Committee must notify the registered medical practitioner concerned and the complainant of its decision under subsection (1), or under subsection (2)(a)(ii) or (4) to refer the complaint or information to a Health Committee, and give the reason for the Complaints Committee's decision.

(13) Every Complaints Committee must immediately report to the Medical Council its findings, and every decision made under this section.

(14) A Complaints Committee completes its inquiry upon the submission of the report mentioned in subsection (13).

Division 5 — Mediation and withdrawal, etc.

Mediation

47.—(1) An Inquiry Committee or a Complaints Committee may, at any time after any complaint or information (called in this Division the matter) is referred to it but before the completion of its inquiry under section 43(3) or 46(14) (as the case may be), refer the matter for mediation between the registered medical practitioner and the complainant, before a mediator specified by the Inquiry Committee or Complaints Committee.

(2) Where the Inquiry Committee or Complaints Committee (as the case may be) is informed by both the registered medical practitioner and the complainant that they have agreed to participate in mediation in relation to the matter (whether or not the mediation has been referred to mediation by an Inquiry Committee or a Complaints Committee under subsection (1)) —

- (a) subject to subsection (3), the Inquiry Committee or Complaints Committee (as the case may be) may direct that the inquiry be suspended for the period or suspended subject to the conditions, specified by the Inquiry Committee or Complaints Committee, as the case may be; and 5
- (b) the mediator must —
 - (i) report to the Inquiry Committee or Complaints Committee (as the case may be) on the status of the mediation, at every interval specified by the Inquiry Committee or Complaints Committee, as the case may be; and 10
 - (ii) as soon as practicable after the termination of the mediation, inform the Inquiry Committee or Complaints Committee (as the case may be) of the termination and outcome of the mediation. 15

(3) Where a mediation is terminated and the matter is not withdrawn, the Inquiry Committee or Complaints Committee (as the case may be) must complete its inquiry within the balance of the period mentioned in section 43(3) or 45(1) (as the case may be) or the extended period granted under section 43(4), 45(3) or 59U(1) (as the case may be) following the termination. 20

(4) Despite subsection (3) and sections 43(3) and 45(1), if the balance of the period mentioned in subsection (3) is less than 7 days, the period during which the Inquiry Committee or Complaints Committee (as the case may be) must complete its inquiry is extended until and including the 7th day after the termination of the mediation. 25

Withdrawal of matter

- 48.—**(1) If a complainant withdraws the matter at any time — 30
- (a) before an Inquiry Committee is appointed to inquire into the matter;

(b) after an Inquiry Committee is appointed but before the Inquiry Committee takes any action under section 43(3);

(c) before a Complaints Committee is appointed to inquire into the matter; or

(d) after a Complaints Committee is appointed but before the Complaints Committee takes any action under section 46(1) or (2),

the Medical Council may, despite the withdrawal, give directions to —

(e) in the case mentioned in paragraph (a) or (c) — the chairman of the Complaints Panel;

(f) in the case mentioned in paragraph (b) — the Inquiry Committee; or

(g) in the case mentioned in paragraph (d) — the Complaints Committee,

for the continuation of the inquiry as if the matter were not withdrawn.

(2) Where the Medical Council gives directions under subsection (1) to the chairman of the Complaints Panel, an Inquiry Committee or a Complaints Committee, the chairman, the Inquiry Committee and the Complaints Committee (as the case may be) must comply with the direction as if the matter had been a complaint made by the Medical Council.

(3) The Medical Council may do any of the following in relation to a matter despite the withdrawal of the matter by the complainant:

(a) refer the matter to the President of the Disciplinary Commission for the appointment of a Disciplinary Tribunal under section 40(7);

(b) refer the matter to a Health Committee under section 46(5);

(c) proceed under section 46(6)(b) and section 46(7) or (8).

(4) If a complainant withdraws the matter before the conclusion of the inquiry into the matter by a Disciplinary Tribunal or a Health Committee, the Medical Council may inform the Disciplinary Tribunal or Health Committee (as the case may be) to continue the inquiry despite the withdrawal, and all the future proceedings arising or following from the direction are to be taken as if the matter had been a complaint made by the Medical Council.

Inquiry Committee or Complaints Committee may make costs orders

49.—(1) Where an Inquiry Committee makes a decision under section 43(3)(a) or a Complaints Committee is of the opinion that the matter is frivolous, vexatious, misconceived or lacking in substance and dismisses the matter under section 46(1)(h), the Inquiry Committee or Complaints Committee (as the case may be) may, after hearing the complainant (if the complainant desires to be heard) —

- (a) order that the costs of the matter be paid by the complainant; and
- (b) in such order, specify the amount of those costs or direct that the amount be taxed by the Registrar of the Supreme Court.

(2) An Inquiry Committee or a Complaints Committee in exercising its discretion as to costs may take into account the parties' conduct in relation to any attempt at resolving the matter by mediation or any other means of dispute resolution.

(3) The High Court has jurisdiction to tax any costs mentioned in subsection (1) and any order for costs made by the High Court is enforceable as if it were ordered in connection with a civil action in the High Court.

(4) Any person who is aggrieved by an order under subsection (1) may, within 14 days after being notified of the order, appeal to the High Court.

(5) An appeal under subsection (4) may be made by originating summons.

Division 6 — Investigations and assessments

Conduct of investigation by investigator

50.—(1) Where —

(a) an Inquiry Committee, a Complaints Committee or a Disciplinary Tribunal (called in this section the instructing committee) directs an investigation under section 43(3)(b)(ii) or (c), 45(7)(b) or 59A(9), as the case may be; and

(b) the instructing committee is of the opinion that the registered medical practitioner should be called upon to answer any allegation made against him,

the instructing committee must give the registered medical practitioner written notice of the investigation and invite the registered medical practitioner to give to the investigator, within the period (not exceeding 21 days after the date of the notice), any written explanation he may wish to offer, containing all relevant information and accompanied by every relevant document that is in the possession of the registered medical practitioner.

(2) The registered medical practitioner may, at any time before the expiration of the period specified for the submission of the written explanation, make not more than one application to the instructing committee for an extension of the period, and the extension must not exceed 21 days.

(3) In the course of an investigation mentioned in subsection (1), a relevant Complaints Committee may authorise in writing the investigator to do one or both of the following:

(a) in the case of a complaint mentioned in section 40(3)(b) — obtain the consent of the registered medical practitioner to undergo a performance assessment in accordance with section 52;

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(b) in the case of any information mentioned in section 40(4)(d) — obtain the consent of the registered medical practitioner to undergo a fitness assessment in accordance with section 53.

(4) Where an investigator requests the consent of the registered medical practitioner under subsection (3), the registered medical practitioner must respond within such time as the investigator may specify in the request.

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(5) If the registered medical practitioner —

(a) declines to undergo a performance assessment or fitness assessment requested under subsection (3);

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(b) having consented to undergo a performance assessment or fitness assessment, subsequently fails to participate in the assessment or refuses to cooperate with any assessor carrying out the assessment; or

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(c) does not respond to the investigator's request within the time mentioned in subsection (4),

the investigator must make a report to the relevant Complaints Committee under section 51, and the relevant Complaints Committee may proceed with the inquiry and take such action as it thinks fit under section 46.

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(6) Where, in the course of an investigation mentioned in subsection (1), an investigator receives any information that relates to the registered medical practitioner who is the subject of the investigation and that is not related to the subject matter of the investigation but may give rise to proceedings under this Part, the investigator must make a report to the Medical Council.

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(7) Where, in the course of an investigation mentioned in subsection (1), an investigator receives any information relating to another registered medical practitioner which may give rise to proceedings under this Part, the investigator must make a report to the Medical Council.

(8) In this section and sections 52 and 53, “relevant Complaints Committee” means —

(a) the Complaints Committee appointed to inquire into any complaint or information that is the subject of the investigation; or

(b) the Complaints Committee which has directed the investigation under section 45(7)(b),

as the case may be.

Investigation report and information obtained in course of investigation or inquiry

51.—(1) Upon completing an investigation into any complaint or information, the investigator must submit a report on the findings of the investigation to —

(a) in the case of an investigation directed by an Inquiry Committee under section 43(3)(b)(ii) or (c) — the Complaints Committee that is appointed to inquire into the complaint or information, or if no Complaints Committee has been appointed, the chairman of the Complaints Panel;

(b) in the case of an investigation directed by a Complaints Committee under section 45(7)(b) — the Complaints Committee; or

(c) in the case of an investigation directed by a Disciplinary Tribunal under section 59A(9) — the Disciplinary Tribunal.

(2) The report of the investigator (called in this Part an investigation report) must contain any written explanation given by the registered medical practitioner under section 50(1).

(3) A person must not disclose the contents of any investigation report or any information contained in any document which was obtained in the course of any investigation or inquiry commenced under this Part to any other person, including the registered medical practitioner concerned, except —

(a) where the chairman of the Complaints Panel, Complaints Committee or Disciplinary Tribunal (as the case may be) to which the investigation report is submitted considers that there are compelling reasons to do so; or

(b) where such disclosure is required for the purpose of administering or enforcing this Act or the Infectious Diseases Act (Cap. 137).

Performance assessment

52.—(1) If a registered medical practitioner consents to undergo a performance assessment under section 50(3)(a), the quality of professional services provided by the registered medical practitioner must be assessed by a Performance Assessment Panel appointed by the relevant Complaints Committee and comprising one or more suitably qualified persons determined by the relevant Complaints Committee.

(2) A Performance Assessment Panel is to carry out the performance assessment in accordance with —

(a) the provisions of this Division;

(b) any practice and procedure determined by the Medical Council for performance assessments; and

(c) any instructions issued by the relevant Complaints Committee for the performance assessment.

(3) The registered medical practitioner under assessment must, if required by a Performance Assessment Panel —

(a) within such time and at such place as the Panel may reasonably require, produce to the Panel or give the Panel access to any record or document —

(i) specified by the Panel or of a class or description so specified;

(ii) which is in the possession or under the control of the registered medical practitioner; and

(iii) which the Panel reasonably believes is or may be relevant to the performance assessment;

(b) give the Panel such explanation or further particulars in respect of anything produced in compliance with a requirement under paragraph (a) as the Panel may specify; and

(c) give the Panel all assistance in connection with the performance assessment which the registered medical practitioner is reasonably able to give.

(4) Where any information or matter relevant to a performance assessment is recorded otherwise than in a legible form, the Performance Assessment Panel may require the registered medical practitioner to produce to the Panel a reproduction of such information or matter, or the relevant part of the information or matter, in a legible form.

(5) A Performance Assessment Panel may inspect, examine or make copies of or take any abstract of or extract from any record or document produced under subsection (3) or (4).

(6) A Performance Assessment Panel must submit a report of its assessment to the relevant Complaints Committee and, with the approval of the relevant Complaints Committee, the registered medical practitioner.

(7) The relevant Complaints Committee, or the investigator with the approval of the relevant Complaints Committee, may discuss with the registered medical practitioner under assessment the report mentioned in subsection (6) and, in the

case of an adverse finding in the report, the possible ways of dealing with that finding.

(8) If, at any time before the report mentioned in subsection (6) is submitted to the relevant Complaints Committee —

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(a) the relevant Complaints Committee instructs the discontinuation of the performance assessment; or

(b) the relevant Complaints Committee completes its inquiry,

the performance assessment is discontinued from the date paragraph (a) or (b) occurs, whichever is earlier.

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Fitness assessment

53.—(1) If a registered medical practitioner consents to undergo a fitness assessment under section 50(3)(b), the registered medical practitioner's fitness to practise medicine by reason of his physical or mental condition must be assessed by a Fitness Assessment Panel appointed by the relevant Complaints Committee and comprising one or more suitably qualified persons determined by the relevant Complaints Committee.

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(2) A Fitness Assessment Panel must carry out the fitness assessment in accordance with —

(a) the provisions of this Division;

(b) any practice and procedure determined by the Medical Council for fitness assessments; and

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(c) any instructions issued by the relevant Complaints Committee for the fitness assessment.

(3) A Fitness Assessment Panel must submit a report of its assessment to the relevant Complaints Committee and, with the approval of the relevant Complaints Committee, provide a copy of the report to the registered medical practitioner.

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(4) The relevant Complaints Committee, or the investigator with the approval of the relevant Complaints Committee, may discuss with the registered medical practitioner under assessment the report mentioned in subsection (3) and, in the case of an adverse finding in the report, the possible ways of dealing with that finding.

(5) If, at any time before the report mentioned in subsection (3) is submitted to the relevant Complaints Committee —

(a) the relevant Complaints Committee instructs the discontinuation of the fitness assessment; or

(b) the relevant Complaints Committee completes its inquiry,

the fitness assessment is discontinued from the date paragraph (a) or (b) occurs, whichever is earlier.

Division 7 — Review by Review Committee

Request for review

54.—(1) A registered medical practitioner who is aggrieved by any direction or decision of a Complaints Committee under section 46(1) may, within 14 days after being notified under section 46(12), request for a review by a Review Committee whose decision is final.

(2) If the complainant is dissatisfied with any direction or decision of a Complaints Committee under section 46(1), he may, within 14 days after being notified under section 46(12), request for a review by a Review Committee whose decision is final.

(3) Where a complaint is made or any matter or information is referred by the Medical Council under section 40(6)(a) and the Medical Council is dissatisfied with any direction or decision of a Complaints Committee under section 46(1), the Medical Council may within 14 days after receipt of the report under section 46(13), request for a review by a Review Committee whose decision is final.

(4) A request for a review under this section must be made to the chairman of the Complaints Panel.

Appointment of Review Committee

55.—(1) The chairman of the Complaints Panel must, within 3 weeks after receipt of a request for review under section 54, appoint from among the members of the Complaints Panel, a Review Committee consisting of —

- (a) one registered medical practitioner of at least 10 years' standing;
- (b) one legal professional; and
- (c) one lay person.

(2) The chairman of a Review Committee is a member of that Committee so appointed by the chairman of the Complaints Panel.

(3) A member of —

- (a) an Inquiry Committee; or
- (b) a Complaints Committee,

is disqualified from acting as a member of a Review Committee reviewing and determining the same matter as the Inquiry Committee or Complaints Committee.

Review by Review Committee

56.—(1) A Review Committee must, within 3 months after the date of its appointment, complete its review and report its determination to the Medical Council.

(2) The chairman of the Complaints Panel may, upon a written request by a Review Committee, grant to the Review Committee one (but not more than one) extension of the period mentioned in subsection (1) if the chairman is satisfied that the circumstances of the case justify the grant of the extension, except that the extension must not extend beyond the period of 6 months after the date of the appointment of the Review Committee.

(3) The Medical Council may, upon a written request by a Review Committee, apply to the High Court in accordance with section 59U for a further extension of time that extends beyond the period mentioned in subsection (2) for the Review Committee to report its determination to the Medical Council.

(4) A Review Committee may, at the conclusion of its review, only make one or both of the following orders:

(a) an order that the Complaints Committee has complied with all the procedural requirements under this Act and any regulations governing an inquiry by a Complaints Committee;

(b) an order directing the Complaints Committee to conduct a further inquiry into or rehear the complaint or matter, where the Review Committee is satisfied that —

(i) the Complaints Committee has not complied with any of those requirements; or

(ii) any new evidence submitted to the Review Committee is material to the complaint or matter.

(5) Where a Review Committee makes an order under subsection (4)(b), the Review Committee must give a further direction to the Complaints Committee to complete the further inquiry or rehearing within such period (not exceeding 3 months after the date of the order) as may be specified by the Review Committee.

(6) Section 45(3), (4), (5), (6) and (7) applies to, or in relation to, a Complaints Committee that is given an order under subsection (4)(b) to conduct a further inquiry into or rehear the complaint or matter as if the Complaints Committee were conducting a new inquiry, and —

(a) for the purposes of section 45(3), the date of the Review Committee's order under subsection (4)(b) is the date that the complaint or information is referred to the Complaints Committee; and

- (b) for the purposes of section 45(7), the Complaints Committee may direct an investigation even if a previous investigation was directed by an Inquiry Committee under section 43(3)(b)(ii) or (c) prior to the order under subsection (4)(b).

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*Division 8 — Disciplinary Commission and
Disciplinary Tribunals*

Disciplinary Commission

57.—(1) The Minister may appoint a Disciplinary Commission consisting of —

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- (a) the President of the Disciplinary Commission who must be a registered medical practitioner of at least 20 years' standing;
- (b) such number of registered medical practitioners as the Minister may determine, each of at least 10 years' standing; and
- (c) such number of legal professionals as the Minister may determine.

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(2) The Disciplinary Commission has the following functions:

- (a) to appoint Disciplinary Tribunals;
- (b) to oversee the training of members of the Complaints Panel and Health Committees;
- (c) to oversee the procedures and processes of Disciplinary Tribunals;
- (d) to maintain such information and records as may be prescribed;
- (e) to publish such information in such manner as may be prescribed.

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(3) In addition to the functions conferred by this section, the Disciplinary Commission may undertake such other functions as the Minister may assign to the Commission, by notification in the *Gazette*, and in so undertaking —

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(a) the Commission is deemed to be fulfilling the purposes of this Act; and

(b) the provisions of this Act apply to the Commission in respect of those other functions and duties.

5 (4) A member of the Disciplinary Commission mentioned in subsection (1)(a), (b) or (c) is appointed for a term of 3 years and is eligible for re-appointment.

10 (5) The President of the Disciplinary Commission may delegate to any other member of the Commission who is a registered medical practitioner any of the duties of the President of the Disciplinary Commission.

15 (6) A member of the Disciplinary Commission must not be appointed a member of an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal, a Health Committee or an Interim Orders Committee except with the approval of the President of the Disciplinary Commission.

(7) The Disciplinary Commission may —

20 (a) appoint one or more committees for any general or special purpose which in the opinion of the Commission may be better regulated or managed by a committee; and

25 (b) delegate to any committee appointed under paragraph (a), with or without restrictions or conditions, any of the powers or functions of the Commission.

(8) The number and term of office of the members of a committee appointed under subsection (7) and the number of those members necessary to form a quorum are to be fixed by the Disciplinary Commission.

30 (9) A committee appointed under subsection (7) may include one or more persons who are not members of the Disciplinary Commission.

Appointment of Disciplinary Tribunals

58.—(1) Subject to section 59, the President of the Disciplinary Commission may appoint a Disciplinary Tribunal consisting of —

- (a) 2 members of the Complaints Panel who are registered medical practitioners of at least 10 years' standing; and 5
- (b) one other member of the Complaints Panel who is a legal professional,

to conduct a formal inquiry into any matter referred to the President of the Disciplinary Commission under section 40(7) or 46(8). 10

(2) Subject to section 59, the chairman of a Disciplinary Tribunal is a member of that Tribunal so designated by the President of the Disciplinary Commission, and where the President of the Disciplinary Commission designates a registered medical practitioner as the chairman of the Disciplinary Tribunal, that registered medical practitioner must have at least 20 years' standing. 15

(3) A member of an Inquiry Committee, a Complaints Committee, a Review Committee, a Health Committee or an Interim Orders Committee is disqualified from acting as a member of a Disciplinary Tribunal conducting an inquiry into the same matter as the Inquiry Committee, Complaints Committee, Review Committee, Health Committee or Interim Orders Committee, as the case may be. 20 25

(4) A Disciplinary Tribunal may be appointed in connection with one or more matters, as the President of the Disciplinary Commission thinks fit.

(5) The President of the Disciplinary Commission may at any time — 30

- (a) revoke the appointment of a Disciplinary Tribunal;
- (b) remove any member of a Disciplinary Tribunal;
- (c) fill any vacancy in a Disciplinary Tribunal; or

(d) where the appointment of a Disciplinary Tribunal has been revoked under paragraph (a) or a Disciplinary Tribunal is for any reason unable to continue with an inquiry, appoint another Disciplinary Tribunal in place of the firstmentioned Disciplinary Tribunal to continue with the inquiry.

(6) The Disciplinary Tribunal that is appointed under subsection (5)(d) may, with the consent of the President of the Disciplinary Commission and the registered medical practitioner to whom the matter relates, and having regard to the evidence given, the arguments adduced and any order made during the proceedings before the previous Disciplinary Tribunal, conduct a formal inquiry into the matter afresh.

(7) The production of any written instrument purporting to be signed by the President of the Disciplinary Commission and making an appointment, a revocation or a removal mentioned in this section constitutes prima facie evidence that such appointment, revocation or removal has been duly made.

(8) Every member of a Disciplinary Tribunal is to be paid such remuneration as the President of the Disciplinary Commission may determine.

(9) No act done by or under the authority of a Disciplinary Tribunal is invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members or any of them.

(10) The chairman of a Disciplinary Tribunal may at any time summon a meeting of the Disciplinary Tribunal.

(11) All the members of a Disciplinary Tribunal must be personally present at any meeting of that Tribunal to constitute a quorum for the transaction of any business.

(12) All the members of a Disciplinary Tribunal present at any meeting of that Tribunal must vote on any question arising at the meeting, and such question must be determined by a majority of votes.

(13) However, if any member of a Disciplinary Tribunal —

- (a) has his appointment revoked or is removed under subsection (5); or
- (b) is unable through death, illness or any other cause to continue with the formal inquiry of the matter,

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the Disciplinary Tribunal must not make any decision on any question mentioned in subsection (12) until that vacancy is filled.

Appointment of Disciplinary Tribunal by Chief Justice

59.—(1) Where the President of the Disciplinary Commission is of the opinion that it would be appropriate for a Disciplinary Tribunal to be chaired by a Judge or Judicial Commissioner of the Supreme Court, the President of the Disciplinary Commission is to apply to the Chief Justice to appoint the Disciplinary Tribunal, and the Chief Justice may appoint the Disciplinary Tribunal by —

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- (a) appointing a Judge or Judicial Commissioner of the Supreme Court as chairman of the Disciplinary Tribunal; and
- (b) after consulting the President of the Disciplinary Commission, appointing 2 members of the Complaints Panel who are registered medical practitioners each of at least 10 years' standing, as members of the Disciplinary Tribunal.

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(2) In relation to any Disciplinary Tribunal appointed under subsection (1) —

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- (a) the Chief Justice may exercise the powers of the President of the Disciplinary Commission under section 58(4) to (8); and
- (b) a reference in section 58(4) to (8) to the President of the Disciplinary Commission is a reference to the Chief Justice.

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(3) For any Disciplinary Tribunal appointed under subsection (1), the Chief Justice may delegate the exercise of all or any of the powers conferred or duties imposed upon the Chief Justice by subsection (2) and section 59A(11)(a) to any Judge of the Supreme Court (other than one who is the chairman of the Disciplinary Tribunal), subject to any condition that the Chief Justice may specify.

(4) Where there is a delegation of any power or duty to a Judge of the Supreme Court under subsection (3), any reference in relation to that power or duty in this Division to the President of the Disciplinary Commission mentioned in subsection (2)(b) is a reference to the Judge of the Supreme Court who is delegated the power or duty.

Proceedings of Disciplinary Tribunal

59A.—(1) A Disciplinary Tribunal may meet from time to time to inquire into any matter mentioned in section 58(1) and may, subject to any rules made under section 70A, regulate its own procedure.

(2) A member of a Disciplinary Tribunal who ceases to be a member of the Complaints Panel on the expiration of his term of office is taken to be a member of the Disciplinary Tribunal until the completion of the work by the Disciplinary Tribunal.

(3) The registered medical practitioner concerned may appear in person before the Disciplinary Tribunal or be represented by counsel.

(4) A Disciplinary Tribunal is not bound to act in a formal manner and is not bound by the provisions of the Evidence Act (Cap. 97) or by any other law relating to evidence but may inform itself on any matter in such manner as it thinks fit.

(5) A Disciplinary Tribunal may, for the purposes of any proceedings before it, administer oaths and any party to the proceedings may take out a subpoena to testify or a subpoena to produce documents.

(6) The subpoenas mentioned in subsection (5) must be served and may be enforced as if they were subpoenas issued in connection with a civil action in the High Court.

(7) Any person giving evidence before a Disciplinary Tribunal is legally bound to tell the truth. 5

(8) Every witness has the same privileges and immunities in relation to hearings before a Disciplinary Tribunal as if such hearings were proceedings in a court of law.

(9) Where a Disciplinary Tribunal is appointed to conduct a formal inquiry into any complaint or information referred to the President of the Disciplinary Commission under section 40(7) — 10

(a) the Disciplinary Tribunal may direct an investigator appointed under section 60A to investigate the complaint or information; and 15

(b) the investigator may exercise one or more of the powers under that section in carrying out the investigator's functions and duties under this Part.

(10) A Disciplinary Tribunal must carry out its work expeditiously, and must make its finding and order within 6 months after the date of the appointment of the Disciplinary Tribunal. 20

(11) Where a Disciplinary Tribunal is of the opinion that it will not be able to make its finding and order within the period mentioned in subsection (10) — 25

(a) in the case of a Disciplinary Tribunal appointed under section 59(1) — the chairman of the Disciplinary Tribunal may apply in writing to the Chief Justice for one or more extensions of time (each not exceeding 3 months) to make its finding and order; or 30

(b) in any other case — the chairman of the Disciplinary Tribunal may apply in writing to the President of the Disciplinary Commission for an extension of time to make its finding and order.

(12) Upon receiving an application under subsection (11)(b), the President of the Disciplinary Commission may, if the President of the Disciplinary Commission is satisfied that the circumstances of the case justify the grant of an extension, grant the Disciplinary Tribunal one (but not more than one) extension of the period mentioned in subsection (10), except that the extension must not extend beyond the period of 9 months after the date of the appointment of that Disciplinary Tribunal.

(13) The Medical Council may, upon a written request by a Disciplinary Tribunal, apply to the High Court in accordance with section 59U for a further extension of time that extends beyond the period mentioned in subsection (12) to make its finding and order.

Appointment of experts and legal counsel

59B.—(1) For the purposes of any formal inquiry by a Disciplinary Tribunal, the Disciplinary Tribunal may appoint one or more of the following:

(a) one or more independent experts;

(b) an advocate and solicitor to advise that Disciplinary Tribunal on any legal matter relating to the inquiry.

(2) In appointing any expert under subsection (1)(a), the Disciplinary Tribunal must hear the views of the registered medical practitioner concerned and the Medical Council.

(3) The Disciplinary Tribunal may, instead of or in addition to appointing its experts under subsection (1)(a), allow the registered medical practitioner concerned and the Medical Council to appoint their respective experts.

(4) An expert or advocate and solicitor appointed under subsection (1) may be paid remuneration of an amount and by one or more persons to be determined by the Disciplinary Tribunal.

Referral and transfer of cases to Health Committee

59C.—(1) Where, in the course of inquiring into the case of a registered medical practitioner, it appears to a Disciplinary Tribunal that his fitness to practise medicine may be impaired by reason of his physical or mental condition, the Disciplinary Tribunal may refer that question to a Health Committee for determination.

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(2) If, on a referral under subsection (1), the Health Committee determines that the fitness of the registered medical practitioner to practise medicine is not impaired by reason of his physical or mental condition, the Health Committee must certify its opinion to the Disciplinary Tribunal.

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(3) If, on a referral under subsection (1), the Health Committee determines that the fitness of the registered medical practitioner to practise medicine is impaired by reason of his physical or mental condition, the Health Committee must —

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(a) certify its opinion to the Disciplinary Tribunal; and

(b) proceed to dispose of the case in accordance with section 59I,

and the Disciplinary Tribunal ceases to exercise its function in relation to the case.

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Findings of Disciplinary Tribunal

59D.—(1) Where a registered medical practitioner is found by a Disciplinary Tribunal —

(a) to have been convicted in Singapore or elsewhere of any offence implying a defect in character which makes him unfit to practise medicine;

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(b) to have been guilty of such improper act or conduct which, in the opinion of the Disciplinary Tribunal, brings disrepute to his profession;

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(c) to have been guilty of professional misconduct; or

- (d) to have failed to provide professional services of the quality that is reasonable to expect of him,

the Disciplinary Tribunal may make one or more orders under subsection (2).

5 (2) For the purposes of subsection (1), the Disciplinary Tribunal may —

- (a) by order remove the name of the registered medical practitioner from the appropriate register;

- 10 (b) by order suspend the registration of the registered medical practitioner in the appropriate register for a period not exceeding 3 years;

- 15 (c) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners — by order remove his name from Part I of that Register and register him instead as a medical practitioner with conditional registration in Part II of that Register, and section 21(4), (6), (7), (8) and (9) applies accordingly;

- 20 (d) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners — by order impose additional appropriate conditions or restrictions on his registration or vary the conditions or restrictions already imposed under section 21, 23 or 24, as the case may be;

- 25 (e) by order impose on the registered medical practitioner a penalty not exceeding \$100,000;

- (f) order that the registered medical practitioner be censured in writing;

- 30 (g) by order require the registered medical practitioner to give such undertaking as the Disciplinary Tribunal thinks fit to abstain in future from the conduct complained of; or

(h) make such other order as the Disciplinary Tribunal thinks fit, including any action that a Complaints Committee may take under section 46(1).

(3) In any proceedings instituted under this Part against a registered medical practitioner consequent upon his conviction for a criminal offence, a Disciplinary Tribunal and the High Court on appeal from any order of the Disciplinary Tribunal are to accept his conviction as final and conclusive.

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(4) Where a registered medical practitioner is not found by a Disciplinary Tribunal to have been convicted or guilty of any of the matters mentioned in subsection (1), the Disciplinary Tribunal must dismiss the matter mentioned in section 58(1).

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(5) A Disciplinary Tribunal may under subsection (2) order the registered medical practitioner concerned to pay to the Medical Council such sums as it thinks fit in respect of costs and expenses of and incidental to any proceedings before the Disciplinary Tribunal and, where applicable, an Interim Orders Committee.

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(6) The High Court has jurisdiction to tax any costs mentioned in subsection (5) and any order for costs made by the High Court is enforceable as if it were ordered in connection with a civil action in the High Court.

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(7) The Disciplinary Tribunal in ordering that costs be paid by the registered medical practitioner under this section may certify that costs for more than one advocate and solicitor be paid if it is satisfied that the issues involved in the proceedings are of sufficient complexity, and the certification by the Disciplinary Tribunal has the same effect as if it were a certification by a Judge in a civil action in the High Court.

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(8) The costs and expenses mentioned in subsection (5) include —

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(a) the costs and expenses of any advocate and solicitor appointed by the Medical Council for proceedings before the Disciplinary Tribunal and, where applicable, the Interim Orders Committee, and any

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expert appointed by the Medical Council under section 59B(3);

(b) such reasonable expenses as the Medical Council may pay to witnesses; and

(c) such reasonable expenses as are necessary for the conduct of proceedings before the Disciplinary Tribunal and the Interim Orders Committee.

Further orders by Disciplinary Tribunal

59E.—(1) Where a registered medical practitioner, in respect of whom an order under subsection (2) or (3) or section 59D(2)(c) or (d), 59L(1)(b) or 59N(1)(d) is made, is found by a Disciplinary Tribunal (whether, in the case of an order under subsection (2) or (3) or section 59D(2)(c) or (d), it is the Disciplinary Tribunal that made the order or another Disciplinary Tribunal appointed in its place) to have failed to comply with any of the requirements imposed on him as conditions or restrictions of his registration, the Disciplinary Tribunal may, if it thinks fit, by order —

(a) remove his name from the appropriate register; or

(b) suspend his registration in the appropriate register for such period not exceeding 12 months as may be specified in the order.

(2) Where a Disciplinary Tribunal has made an order for suspension under subsection (1)(b) or section 59D(2)(b), the Disciplinary Tribunal may make an order under section 59D(2)(c) or (d), to take effect immediately after the expiration of the current period of suspension.

(3) Where a Disciplinary Tribunal has made an order for suspension under subsection (1)(b) or section 59D(2)(b) against a registered medical practitioner and he has failed to comply with that order, the Disciplinary Tribunal or another Disciplinary Tribunal appointed in its place may, if it thinks fit —

- (a) by order remove his name from the appropriate register; or
- (b) make an order under section 59D(2)(c) or (d), to take effect immediately after the expiration of the current period of suspension.

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(4) Where a Disciplinary Tribunal has made an order under section 59D(2)(c) or (d), the Disciplinary Tribunal or another Disciplinary Tribunal appointed in its place may revoke the order or revoke or vary any of the conditions or restrictions imposed by that order.

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(5) Where a Disciplinary Tribunal has made an order under section 59D or this section, or has varied the conditions or restrictions imposed by an order under section 59D or this section, the Registrar must immediately serve on the registered medical practitioner and on the complainant a notice of the order or the variation.

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(6) On making an order for the removal of the name of a registered medical practitioner from the appropriate register or for the suspension of his registration under subsection (1) or (3) or section 59D(2)(a) or (b), a Disciplinary Tribunal, if satisfied that to do so —

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- (a) is necessary for the protection of members of the public or is otherwise in the public interest; or
- (b) would be in the best interests of the registered medical practitioner concerned,

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may order that, despite section 59F(1) or an appeal under section 59G —

- (c) the registered medical practitioner's name be removed from the appropriate register immediately; or
- (d) the registered medical practitioner's registration in the register be suspended immediately.

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(7) Where an order under subsection (6) is made, the Registrar must immediately serve a notice of the order on the person to whom it applies and —

- (a) if that person was present or represented at the proceedings of the Disciplinary Tribunal, the order takes effect from the time the order is made; or
- (b) if that person was neither present nor represented at the proceedings of the Disciplinary Tribunal, the order takes effect from the date of service of the notice on him.

When order by Disciplinary Tribunal takes effect

59F.—(1) Subject to section 59E(6), an order made by a Disciplinary Tribunal for the removal of the name of a registered medical practitioner from the appropriate register or for the suspension of the registered medical practitioner's registration under section 59D(2)(a) or (b) or 59E(1) or (3), does not take effect until the expiration of 30 days after the order is made.

(2) An order of a Disciplinary Tribunal, other than an order for the removal of any name or for the suspension of any registration under section 59D(2)(a) or (b) or 59E(1) or (3), takes effect from the date the order is made.

(3) While any order for the suspension of any registration remains in force, the person concerned is not regarded as being registered even though his name still appears in the register concerned; but on the expiration of such order, his rights and privileges as a registered medical practitioner are to be revived immediately after the date of such expiration but only if the person concerned has complied with all the terms of the order.

Appeal against Disciplinary Tribunal's decision or order

59G.—(1) If the registered medical practitioner concerned or the Medical Council is dissatisfied with a decision of or an order by the Disciplinary Tribunal mentioned in section 59D(2), (4) or (5) or 59E, the registered medical practitioner or the Medical Council may, within 30 days after the service on the registered

medical practitioner of the notice of the decision or order, appeal to the High Court against the decision or order.

(2) An appeal under this section is to be heard by 3 Judges of the High Court and from the decision of the High Court there is to be no appeal. 5

(3) In any appeal to the High Court against a decision or an order mentioned in section 59D(2), (4) or (5) or 59E, the High Court is to accept as final and conclusive any finding of the Disciplinary Tribunal relating to any issue of medical ethics or standards of professional conduct unless such finding is in the opinion of the High Court unsafe, unreasonable or contrary to the evidence. 10

(4) Despite sections 59D, 59E and 59F, where an appeal has been made to the High Court against a decision or an order of the Disciplinary Tribunal mentioned in section 59D(2) or 59E (called in this section a relevant order), the relevant order is not to take effect until after — 15

- (a) the relevant order is confirmed by the High Court;
- (b) the appeal is for any reason dismissed by the High Court; or 20
- (c) the appeal is withdrawn.

(5) Subsection (4) does not apply if, at the time of making the relevant order —

- (a) where a relevant order is made under section 59D(2)(a) or (b) or 59E(1) or (3) — the Disciplinary Tribunal makes an order under section 59E(6)(c) or (d); or 25
- (b) in any other case — the Disciplinary Tribunal orders that the relevant order take effect immediately despite an appeal because doing so — 30
 - (i) is necessary for the protection of members of the public or is otherwise in the public interest; or

- (ii) would be in the best interests of the registered medical practitioner concerned.

Division 9 — Health Committees

Appointment of Health Committees

5 **59H.**—(1) The Medical Council may, from time to time, appoint one or more Health Committees, each comprising 3 persons, at least one of whom must be a member of the Medical Council.

10 (2) The Medical Council must appoint as the chairman of a Health Committee —

 (a) if the Health Committee has only one member of the Medical Council — that member of the Medical Council; and

15 (b) if the Health Committee has more than one member of the Medical Council — any of those members of the Medical Council as the Medical Council thinks fit.

 (3) A Health Committee is to inquire into any case or matter referred to it under this Act.

20 (4) A Health Committee may be appointed in connection with one or more matters or for a fixed period of time as the Medical Council thinks fit.

Unfitness to practise medicine through illness, etc.

25 **59I.**—(1) Where a Health Committee determines that a registered medical practitioner's fitness to practise medicine is impaired by reason of the registered medical practitioner's physical or mental condition, the Health Committee may take one or more of the following actions:

30 (a) by order suspend his registration in the appropriate register for such period not exceeding 12 months as may be specified in the order;

- (b) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners — by order remove his name from Part I of that Register and register him instead as a medical practitioner with conditional registration in Part II of that Register, and section 21(4), (6), (7), (8) and (9) applies accordingly; 5
- (c) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners — by order impose additional appropriate conditions or restrictions on his registration or vary the conditions or restrictions already imposed under section 21, 23 or 24, as the case may be; 10
- (d) recommend to the Medical Council that the name of the registered medical practitioner be removed from the appropriate register; 15
- (e) order that the registered medical practitioner pay to the Medical Council costs and expenses of and incidental to any inquiry or hearing by the Health Committee and, where applicable, an Interim Orders Committee. 20

(2) Where the Medical Council accepts the recommendation of the Health Committee under subsection (1)(d), the Medical Council must by order remove the name of the registered medical practitioner from the appropriate register and that order takes effect from the date the order is made. 25

(3) Where a registered medical practitioner, in respect of whom an order under subsection (1)(b) or (c), (4) or (5)(b) or section 59L(1)(b) or 59N(1)(d) is made, is determined by a Health Committee to have failed to comply with any of the requirements imposed on him as conditions or restrictions of his registration, the Health Committee may, if it thinks fit, by order suspend his registration in the appropriate register for such period not exceeding 12 months as may be specified in the order. 30 35

(4) Where a Health Committee has made an order for suspension under subsection (1)(a) or (3), the Health Committee may make an order under subsection (1)(b) or (c), to take effect from the expiration of the current period of suspension.

(5) Where a Health Committee has made an order for suspension under subsection (1)(a) or (3) against a person and that person has failed to comply with that order, the Health Committee may, if it thinks fit —

(a) make a recommendation mentioned in subsection (1)(d) to the Medical Council, and subsection (2) applies accordingly; or

(b) make an order under subsection (1)(b) or (c), to take effect immediately after the expiration of the current period of suspension.

(6) Where a Health Committee has made an order under subsection (1)(b) or (c), the Health Committee or another Health Committee appointed in its place may, on its own motion or on the application of the Medical Council or the registered medical practitioner, revoke the order or revoke or vary any of the conditions or restrictions imposed by the order.

(7) An application under subsection (6) must not be made in respect of the same registered medical practitioner more than once in any period of 12 months.

(8) Where a Health Committee has made an order (including a revocation of the order or a revocation or variation of any condition or restriction imposed by the order) under this section, the Registrar must immediately serve on the person to whom the order applies a notice of the order or of the revocation or variation.

(9) While a person's registration in a register is suspended by virtue of this section, the person is to be treated as not being registered in the register even though the person's name still appears in it.

(10) Section 59A(3) to (13) applies, with the necessary modifications, to a Health Committee as it applies to a Disciplinary Tribunal appointed under section 58 and for this purpose —

- (a) a reference in those provisions to a Disciplinary Tribunal is a reference to the Health Committee; and
- (b) a reference in those provisions to the President of the Disciplinary Commission is a reference to the Medical Council.

(11) Any person who is aggrieved by an order (including a revocation of the order or a revocation or variation of any condition or restriction imposed by the order) made under this section may, within 30 days after the service on the person of the notice of the order, appeal to the Minister whose decision is final.

(12) Any order (including a revocation of the order or a revocation or variation of any condition or restriction imposed by the order) made under this section takes effect from the date the order, revocation or variation is made unless the Minister decides otherwise.

Division 10 — Interim Orders Committees

Interim Orders Committee

59J.—(1) The Medical Council may, from time to time, appoint one or more committees each comprising 3 members who must each be a member of the Medical Council or the Complaints Panel, to be known for the purposes of this Act as Interim Orders Committees, to inquire into or review any matter under this Division.

(2) An Interim Orders Committee may be appointed in connection with one or more matters or for a fixed period of time.

(3) The chairman of the Complaints Panel, the President of the Disciplinary Commission, an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal or a Health Committee may refer any complaint or information, that was referred to the chairman, President, Committee or Tribunal (as the case may be), to the Medical Council for the purpose of —

(a) appointing an Interim Orders Committee; or

(b) referring the complaint or information to an Interim Orders Committee,

for the Interim Orders Committee to determine whether an order should be made under section 59L(1).

(4) Subject to subsection (5), the Medical Council may, on its own motion and at any time after any complaint or information is made, provided or referred under section 40(1) or (6)(a), refer the complaint or information to an Interim Orders Committee for the purpose of determining whether an order should be made under section 59L(1).

(5) The Medical Council must not refer any complaint or information to which section 42(1) or (2) applies to an Interim Orders Committee under subsection (4) at any time before the President of the Disciplinary Commission has assessed that it is in the public interest to refer the complaint or information to the chairman of the Complaints Panel under section 42(3)(a).

(6) The chairman of the Complaints Panel, or a member of an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal or a Health Committee, is disqualified from acting as a member of an Interim Orders Committee inquiring into and determining the same matter as the chairman, or the Inquiry Committee, Complaints Committee, Review Committee, Disciplinary Tribunal or Health Committee, as the case may be.

(7) Where the Medical Council refers any complaint or information under subsection (4) to an Interim Orders Committee, any member of the Medical Council who

participated in or influenced the making of the decision to make the referral is disqualified from acting as a member of the Interim Orders Committee inquiring into or reviewing the same matter.

(8) A member of an Interim Orders Committee inquiring into or reviewing any matter is disqualified from acting as a member of an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal or a Health Committee inquiring into or reviewing the same matter, or taking part in any deliberation of the Medical Council in respect of the same matter under any provision of this Part.

(9) Section 59A(3) to (9) applies, with the necessary modifications, to an Interim Orders Committee and to proceedings before it as it applies to a Disciplinary Tribunal appointed under section 58 and to proceedings before such Disciplinary Tribunal.

Immediate interim orders

59K.—(1) Subject to subsection (5), an Interim Orders Committee may, at any time after any complaint or information is referred to it but before an interim order is made under section 59L(1), make an immediate interim order against a registered medical practitioner without first giving the registered medical practitioner an opportunity to be heard if —

(a) the Interim Orders Committee is satisfied that —

(i) a court of law in Singapore has found that the registered medical practitioner has engaged in any conduct alleged in the complaint or information; and

(ii) the conduct poses an imminent danger to the health or safety of any patient of the registered medical practitioner; or

(b) the Medical Council certifies that the Medical Council is of the opinion that any conduct alleged in the complaint or information poses an imminent

danger to the health or safety of any patient of the registered medical practitioner.

(2) The Registrar must immediately notify the registered medical practitioner of the order made under subsection (1), and such order takes effect from the date the order is made.

(3) An immediate interim order ceases to have effect from —

(a) the date the Interim Orders Committee revokes the immediate interim order;

(b) the date an interim order is made under section 59L(1) to replace the immediate interim order; or

(c) where the registered medical practitioner has not, within one month after the date of the immediate interim order, been given an opportunity to be heard by the Interim Orders Committee on the question whether an interim order under section 59L(1) should be made — the expiration of one month after the date of the immediate interim order,

whichever occurs first.

(4) In this section, “immediate interim order” means an order —

(a) that a registered medical practitioner’s registration in the appropriate register be suspended from the date of the order; or

(b) that a registered medical practitioner’s registration be conditional on his compliance, from the date of the order, with such conditions or restrictions specified in the order as the Interim Orders Committee thinks fit to impose.

(5) This section does not apply in relation to any complaint or information referred to an Interim Orders Committee if the Interim Orders Committee has made an interim order under section 59L(1) in respect of the same complaint or information.

Interim orders

59L.—(1) Subject to subsection (4), where, upon due inquiry into any complaint or information referred to an Interim Orders Committee, the Interim Orders Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or it is in the interests of the registered medical practitioner concerned, that his registration be suspended or be made subject to conditions or restrictions, the Interim Orders Committee may make an order —

(a) that his registration in the appropriate register be suspended for a period not exceeding 18 months specified in the order (called in this Part an interim suspension order); or

(b) that his registration be conditional on his compliance, during a period not exceeding 18 months, with such conditions or restrictions specified in the order as the Interim Orders Committee thinks fit to impose (called in this Part an interim restriction order).

(2) An Interim Orders Committee must inquire into and decide on the complaint or information referred to it as soon as is practicable after the complaint or information is referred to it.

(3) The Registrar must immediately notify the registered medical practitioner of the order made under subsection (1), and such order takes effect from the date the order is made.

(4) An Interim Orders Committee must not make an order under subsection (1) at any time after the relevant proceedings are concluded.

(5) For the purposes of subsection (4), the relevant proceedings are concluded when any one of the events mentioned in section 59Q(2)(a), (b), (c) or (d) occurs.

Review of interim orders

59M.—(1) Subject to subsection (2), where an Interim Orders Committee has made an order under section 59L(1), the Interim Orders Committee or another Interim Orders Committee appointed in its place —

(a) must review the order within the period of 6 months beginning on the date the order was made, and must, for so long as the order continues in force, further review it before the end of the period of 3 months beginning on the date of the decision of the immediately preceding review; and

(b) may review the order where new evidence relevant to the order has become available after the making of the order.

(2) Where the High Court has extended an order under section 59P(2) or an Interim Orders Committee has made a replacement order under section 59N(1)(c) or (d), the first review after such extension or making of the replacement order must take place —

(a) if the order (or the order which has been replaced) had not been reviewed under subsection (1) — within the period of 6 months beginning on the date on which the High Court ordered the extension or on which the replacement order was made, as the case may be; or

(b) if the order (or the order which has been replaced) had been reviewed under subsection (1) — within the period of 3 months beginning on the date on which the High Court ordered the extension or on which the replacement order was made.

Interim Orders Committee may revoke, vary or replace interim order

59N.—(1) Upon a review under section 59M or upon the recommendation of the chairman of the Complaints Panel, the President of the Disciplinary Commission, the Medical Council

or any specified committee, the Interim Orders Committee that made an interim suspension order or interim restriction order under this section or section 59L(1) in relation to any registered medical practitioner may do any of the following:

- (a) revoke the order or revoke any condition or restriction imposed by the order; 5
- (b) make an order varying any condition or restriction imposed by the order;
- (c) in the case of an interim restriction order — if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the registered medical practitioner, or that the registered medical practitioner has not complied with any requirement imposed as a condition or restriction of his registration in the interim restriction order, replace that order with an interim suspension order having effect for the remainder of the period of the former; 10 15
- (d) in the case of an interim suspension order — if satisfied that the public interest or the interests of the registered medical practitioner would be more adequately served by an interim restriction order, replace the interim suspension order with an interim restriction order having effect for the remainder of the period of the former. 20 25

(2) The Registrar must immediately notify the registered medical practitioner of the decision under subsection (1), and such order takes effect from the date the order is made.

(3) For the purposes of subsection (1), a reference to an Interim Orders Committee that made an interim suspension order or interim restriction order includes a reference to another Interim Orders Committee appointed in its place. 30

(4) In this section, “specified committee”, in relation to the registered medical practitioner against whom an interim suspension order or interim restriction order has been made, 35

means an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal or a Health Committee appointed to conduct an inquiry or review (as the case may be) in relation to the complaint against or information about the registered medical practitioner.

Right of hearing

59O.—(1) An order under section 59L(1) or 59N(1)(b), (c) or (d) must not be made by an Interim Orders Committee in respect of any registered medical practitioner unless he has been afforded an opportunity of appearing before the Interim Orders Committee and being heard on the question of whether such an order should be made in his case.

(2) For the purposes of subsection (1), the registered medical practitioner may be represented before the Interim Orders Committee by counsel.

Application to High Court

59P.—(1) The Medical Council may apply to the High Court for an extension of the period for which an order made under section 59L(1) or 59N(1)(c) or (d) has effect, and may apply again for one or more further extensions.

(2) Upon an application under subsection (1), the High Court may grant an extension (or a further extension) for a period not exceeding 12 months.

(3) The High Court may, upon application by the registered medical practitioner concerned —

- (a) in the case of an interim suspension order — revoke the order;
- (b) in the case of an interim restriction order — revoke the order or vary any condition or restriction imposed by the order; or

- (c) in either case — substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it).

(4) An application under subsection (3) must be made within 14 days after the registered medical practitioner concerned is notified of the interim suspension order or interim restriction order under section 59L(3) or 59N(2), as the case may be.

(5) An application under subsection (3) must be heard otherwise than in open court.

(6) The High Court may, upon an application by the registered medical practitioner, order that any information contained in any document relating to an application under subsection (3) must not be published or disclosed, unless —

- (a) the registered medical practitioner consents to the publication or disclosure; or
- (b) the High Court is satisfied that the information if published or disclosed does not disclose any confidential information.

Duration of interim orders

59Q.—(1) An interim suspension order or an interim restriction order is in force until the earlier of the following:

- (a) the end of the period specified —
- (i) in the order; or
- (ii) if the period is extended under section 59P(2), in the order extending it;
- (b) the date on which the relevant proceedings are concluded.

(2) For the purposes of subsection (1)(b), the relevant proceedings are concluded when any one of the following occurs:

(a) where an Inquiry Committee has been appointed to inquire into the complaint or information — the Inquiry Committee has under section 43 —

(i) dismissed the complaint; or

(ii) issued a letter of advice;

(b) where a Complaints Committee has been appointed to inquire into the complaint or information — the Complaints Committee has taken an action under section 46(1) and —

(i) no request for review under section 54(1), (2) or (3) was made to the Review Committee against that action within the period specified in that section; or

(ii) such a request was made but withdrawn, or the Review Committee made an order under section 56(4)(a) in relation to the request;

(c) where a Disciplinary Tribunal has been appointed to inquire into the complaint or information — the Disciplinary Tribunal —

(i) has made an order under section 59D(2) which has taken effect; or

(ii) has dismissed the complaint or matter under section 59D(4);

(d) where a Health Committee has been appointed to inquire into the matter —

(i) the Health Committee has made an order under section 59I(1) which has taken effect;

(ii) the Medical Council has made an order under section 59I(2) which has taken effect; or

(iii) the Health Committee has dismissed the complaint or matter.

Person suspended under interim suspension order not regarded as registered

59R.—(1) While a person’s registration in the register is suspended by virtue of an interim suspension order, the person is not to be regarded as being registered even though the person’s name still appears in the register.

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(2) Upon the expiration or revocation of an interim suspension order, the person’s rights and privileges as a registered medical practitioner are revived immediately after the date of the expiration or revocation, but only if he has complied with all the terms of the order.

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(3) To avoid doubt, sections 40 to 59E, 59H and 59I continue to apply to a person whose registration in the register is suspended by or under an interim suspension order.

Division 11 — Miscellaneous

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Medical Council may appoint legal counsel

59S.—(1) For the purposes of an inquiry under this Part by any Inquiry Committee, Complaints Committee, Review Committee, Health Committee or Interim Orders Committee, the Medical Council may appoint an advocate and solicitor to advise that Committee on any legal matter relating to the inquiry.

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(2) Where an advocate and solicitor is appointed under subsection (1), the Medical Council may pay the advocate and solicitor, as part of the expenses of the Medical Council, such remuneration as the Medical Council may determine.

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Restoration of names to register

59T.—(1) This section applies in relation to a medical practitioner whose name has been removed from a register —

- (a) under section 38(2)(a) or 46(1)(g)(i) or (3)(a) or under section 37A(1)(i) or 49(1)(g)(i) as in force immediately before the date of commencement of section 7 of the Medical Registration (Amendment) Act 2020;

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(b) pursuant to an order made by a Disciplinary Tribunal under section 59D(2)(a) or 59E(1)(a) or (3)(a) or under section 53(2)(a) or 54(1)(a) or (3)(a) as in force immediately before that date;

5 (c) on the recommendation of a Health Committee under section 59I(1)(d) or under section 58(1)(d) as in force immediately before that date;

10 (d) pursuant to an order made by a Disciplinary Committee under section 45 or 46 as in force immediately before 1 December 2010; or

(e) under section 22 of the repealed Medical Registration Act (Cap. 174, 1985 Ed.).

15 (2) Subject to subsections (3) and (4), the Medical Council may, upon an application for restoration by the medical practitioner mentioned in subsection (1), if it thinks fit —

(a) restore his name to the register; or

20 (b) register him as a medical practitioner with conditional registration in Part II of the Register of Medical Practitioners, and section 21(4), (6), (7), (8) and (9) applies accordingly.

(3) In the case mentioned in subsection (1)(b), the Medical Council must not restore the name of a medical practitioner to the register or register him as a medical practitioner with conditional registration under subsection (2) if —

25 (a) the medical practitioner has not complied with all the terms of any order made against him by the Disciplinary Tribunal;

(b) the application for restoration is made before the expiration of 3 years from the date of the removal; or

30 (c) the application for restoration is made more than once in any period of 12 months by or on behalf of the medical practitioner.

(4) In the case mentioned in subsection (1)(c), (d) or (e), the Medical Council must not restore the name of a medical practitioner to the register or register him as a medical practitioner with conditional registration under subsection (2) if —

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- (a) the medical practitioner has not complied with all the terms of any order made against him by the Health Committee, Disciplinary Committee or Medical Council, as the case may be; or
- (b) the application for restoration is made more than once in any period of 12 months by or on behalf of the medical practitioner.

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Applications to High Court for extension of time

59U.—(1) Where an application is made to the High Court under section 45(4), 56(3) or 59A(13), the High Court may, subject to such conditions as the High Court may impose, grant one or more further extensions of time, each not exceeding 3 months.

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(2) An application under subsection (1) may be made by ex parte originating summons, and must not be heard in open court.

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(3) The High Court may, upon an application by the Medical Council, order that any information contained in any document relating to an application under subsection (1) must not be published or disclosed, unless —

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- (a) the Medical Council consents to the publication or disclosure; or
- (b) the High Court is satisfied that the information if published or disclosed does not disclose any confidential information.

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Meetings and proceedings of committees

5 **59V.**—(1) Subject to subsection (2), this section applies to every Inquiry Committee, Complaints Committee, Review Committee, Health Committee or Interim Orders Committee (each called in this section a relevant committee) appointed under this Act.

(2) Subsection (8) does not apply in relation to an Inquiry Committee.

10 (3) The appointing authority of a relevant committee may at any time —

(a) revoke the appointment of the relevant committee;

(b) remove any member of the relevant committee;

(c) fill any vacancy in the relevant committee; or

15 (d) where the appointment of the relevant committee has been revoked under paragraph (a) or the relevant committee is for any reason unable to continue with an inquiry or review (as the case may be), appoint another relevant committee in place of the firstmentioned relevant committee to continue with
20 the inquiry or review (as the case may be).

(4) No act done by or under the authority of a relevant committee is invalid as a consequence of any defect that is subsequently discovered in the appointment or qualifications of the members or any of them.

25 (5) The chairman of a relevant committee may at any time summon a meeting of the relevant committee.

(6) A relevant committee may meet for the purposes of its inquiry or review (as the case may be), and may adjourn and otherwise regulate the conduct of its inquiry or review (as the
30 case may be) as its members think fit.

(7) All the members of a relevant committee must be present to constitute a quorum for a meeting of the relevant committee, and any resolution or decision in writing signed by all the members of a relevant committee is as valid and effectual as if it

had been made or reached at a meeting of the relevant committee where all its members were present.

(8) All the members of a relevant committee present at any meeting of the relevant committee must vote on any question arising at the meeting, and such question must be determined by a majority of votes.

5

(9) However, if any member of a relevant committee —

(a) has his appointment revoked or is removed under subsection (3); or

(b) is unable through death, illness or any other cause to continue with the inquiry or review (as the case may be),

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the relevant committee must not make any decision on any question arising at a meeting until that vacancy is filled.

(10) A member of a relevant committee who ceases to be a member of the Complaints Panel or Medical Council (as the case may be) on the expiration of his term of office is taken to be a member of the relevant committee until the completion of the work by the relevant committee.

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(11) In this section, “appointing authority” means —

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(a) in relation to an Inquiry Committee, a Complaints Committee or Review Committee — the chairman of the Complaints Panel; and

(b) in relation to a Health Committee or an Interim Orders Committee — the Medical Council.

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Employee of Ministry of Health not disqualified from being committee member

59W. Any member of the Medical Council who is employed in the Ministry of Health is not disqualified from being a member of any Inquiry Committee, Complaints Committee, Review Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee by reason only that the member is so employed.

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Confidentiality of information

59X.—(1) A person to whom this section applies is not compellable in any proceedings to give evidence in respect of, or to produce any document containing any information which has been obtained in the course of, a performance assessment or fitness assessment under section 52 or 53 except in —

(a) an inquiry by any Inquiry Committee, Complaints Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee;

(b) a review by any Review Committee; or

(c) a prosecution for an offence.

(2) A person to whom this section applies must not disclose any information contained in any document that may have come to the person's knowledge in the course of a performance assessment or fitness assessment under section 52 or 53 unless the disclosure is made —

(a) under or for the purpose of administering or enforcing this Act or the Infectious Diseases Act; or

(b) for any other purpose with the consent of the person to whom the information relates.

(3) This section applies to —

(a) a member of a Performance Assessment Panel or Fitness Assessment Panel;

(b) an investigator appointed under section 60A to carry out an investigation under this Part;

(c) a member of any Inquiry Committee, Complaints Committee, Review Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee; and

(d) a member or an officer or an agent, of the Medical Council or Disciplinary Commission.”.

Amendment of section 60

8. Section 60 of the principal Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) All fees, penalties and other moneys payable to the Medical Council under this Act that are not paid are recoverable as a debt due to the Medical Council.

(2) Subject to subsection (2A), all fees and other moneys (other than penalties) collected or recovered by the Medical Council under this Act must be paid to the Medical Council.

(2A) All penalties collected or recovered under this Act must be paid into the Consolidated Fund.”; and

(b) by inserting, immediately after the words “Medical Council” in the section heading, the word “, etc.”.

Amendment of section 60A

9. Section 60A(3) of the principal Act is amended by inserting, immediately after the word “who”, the words “, without lawful excuse”.

Repeal and re-enactment of section 61

10. Section 61 of the principal Act is repealed and the following section substituted therefor:

“Proceedings conducted by officers of Medical Council

61. Despite the provisions of any written law, a legal officer of the Medical Council who has been admitted as an advocate and solicitor under the Legal Profession Act (Cap. 161) may —

(a) appear in any proceedings under this Act or any other civil proceedings involving the Medical Council in the performance of its functions or duties under any written law; and

- (b) make and do all acts and applications in respect of any proceedings under this Act or any other civil proceedings, on behalf of the Medical Council.”.

New sections 65A and 65B

- 5 **11.** The principal Act is amended by inserting, immediately after section 65, the following sections:

“Deemed public servants

- 10 **65A.**—(1) The following persons are each taken to be a public servant for the purposes of the Penal Code (Cap. 224) in relation to his performance of any function or duty under this Act:

- (a) the chairman of the Complaints Panel;
- (b) the President of the Disciplinary Commission;
- (c) any member of —
 - (i) the Medical Council;
 - 15 (ii) the Disciplinary Commission;
 - (iii) any Inquiry Committee, Complaints Committee, Review Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee; and
 - 20 (iv) any other committee appointed by the Medical Council or the Disciplinary Commission under this Act;
 - (d) any employee of the Medical Council or the Disciplinary Commission, or any other person
 - 25 acting under the direction of the Medical Council or the Disciplinary Commission.

- 30 (2) For the purposes of sections 193 and 228 of the Penal Code, “judicial proceeding” is taken to include any proceedings before an Inquiry Committee, a Complaints Committee, a Review Committee, a Disciplinary Tribunal, a Health Committee or an Interim Orders Committee.

General exemption

65B.—(1) The Minister may, after consultation with the Medical Council, by order in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act, either generally or in a particular case and subject to such conditions as the Minister may impose.

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(2) This section does not affect section 66.”.

Amendment of section 66

12. Section 66 of the principal Act is amended by deleting the section heading and substituting the following section heading:

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“Exemption for ships’ surgeons”.

Amendment of section 66A

13. Section 66A(4) of the principal Act is amended by deleting the words “funds of the Medical Council” and substituting the words “Consolidated Fund”.

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Repeal and re-enactment of section 68

14. Section 68 of the principal Act is repealed and the following section substituted therefor:

“Protection from personal liability

68. No liability shall lie against —

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- (a) the chairman of the Complaints Panel;
- (b) the President of the Disciplinary Commission;
- (c) any member of —

- (i) the Medical Council;
- (ii) the Disciplinary Commission;
- (iii) any Inquiry Committee, Complaints Committee, Review Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee; and

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(iv) any other committee appointed by the Medical Council or the Disciplinary Commission under this Act; or

(d) any employee of the Medical Council or the Disciplinary Commission, or any other person acting under the direction of the Medical Council or the Disciplinary Commission,

for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in the exercise or purported exercise of any power or the performance or purported performance of any function under this Act.”.

New section 68B

15. The principal Act is amended by inserting, immediately after section 68A, the following section:

“Service of documents

68B.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;
- (c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;

(e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(f) by sending it by email to the individual's last email address.

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(3) A document permitted or required under this Act to be served on a partnership (other than a limited liability partnership) may be served —

(a) by giving it to any partner or other similar officer of the partnership;

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(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

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(d) by sending it by email to the partnership's last email address.

(4) A document permitted or required under this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

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(a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;

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(c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or

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(d) by sending it by email to the last email address of the body corporate or unincorporated association.

(5) Service of a document under this section takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent; and

(c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

(7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

(a) in the case of an individual, the individual's usual or last known place of business in Singapore; or

(b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“document” includes a direction, order or notice permitted or required by this Act to be served on a person;

“last email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

“residential address” means an individual's usual or last known place of residence in Singapore.”.

Amendment of section 70

16. Section 70(2) of the principal Act is amended —

- (a) by inserting, immediately after the words “such grant and renewal” in paragraph (b), the words “, and the reinstatement of practising certificates cancelled under the Act”; 5
- (b) by deleting the words “a Disciplinary Tribunal, the Health Committee and an Interim Orders Committee to order and give discovery and” in paragraph (e) and substituting the words “the Health Committee and an Interim Orders Committee to order discovery or”; 10
- (c) by inserting, immediately after paragraph (e), the following paragraphs:
 - “(ea) prescribing that a registered medical practitioner in respect of whom an interim suspension order or an interim restriction order has been made is, if he so requires, entitled to be heard by the Interim Orders Committee on each occasion the Committee reviews the order, and may be represented by counsel at each review; 15
 - (eb) prescribing the procedure for the withdrawal of charges by the Medical Council in any proceedings under Part 7;”; 20 25
- (d) by inserting, immediately after the word “practitioners” in paragraph (f), the words “, except in relation to the proceedings of a Disciplinary Tribunal”; and
- (e) by deleting paragraph (i).

New section 70A

17. The principal Act is amended by inserting, immediately after section 70, the following section:

“Rules relating to Disciplinary Commission and Disciplinary Tribunals

70A. The Minister may make rules —

- (a) to provide for matters relating to the Disciplinary Commission; and
- (b) to regulate the practice and procedure of Disciplinary Tribunals, including enabling Disciplinary Tribunals to order discovery or inspection of documents for the purpose of any proceedings before them.”.

Amendment of section 71

18. The principal Act is amended by renumbering section 71 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) The Minister may, in any order made under subsection (1), make such saving or transitional provision as may be necessary or expedient.”.

Amendment of section 72

19. Section 72 of the principal Act is amended by deleting subsection (4).

Amendment of section 75

20. Section 75 of the principal Act is amended by deleting subsection (1).

Miscellaneous amendments

21.—(1) The principal Act is amended by deleting the words “practise as a medical practitioner” in the following provisions and substituting in each case the words “practise medicine”:

Sections 8(g), 13(a), 24(2A)(b) and 67(1).

(2) The principal Act, as amended by sections 2 and 7, is further amended —

- (a) by deleting the words “a Judge or Judicial Commissioner of the Supreme Court” wherever they appear in the definition of “legal professional” in section 2(1) and section 59(1) and substituting in each case the words “a Supreme Court Judge or a Judicial Commissioner”; 5
- (b) by deleting subsections (2), (3) and (4) of section 2;
- (c) by deleting the words “High Court” wherever they appear in the following provisions and substituting in each case the words “General Division of the High Court”: 10
 - Sections 45(4), 49(3) and (4), 56(3), 59A(6) and (13), 59D(3), (6) and (7), 59G(1) to (4), 59M(2), 59P(1), (2), (3) and (6) and section heading and 59U(1) and (3) and section heading; and 15
- (d) by deleting the words “Judge of the Supreme Court” wherever they appear in section 59(3) and (4) and substituting in each case the words “Supreme Court Judge”.

Consequential amendment to Supreme Court of Judicature (Amendment) Act 2019 20

22. Item 96 of the Schedule to the Supreme Court of Judicature (Amendment) Act 2019 (Act 40 of 2019) is deleted.

Saving and transitional provisions

23.—(1) Despite section 3, a person who, immediately before the date of commencement of section 3, was a member of the Medical Council under section 4(1)(b) of the principal Act continues to hold office as a member of the Medical Council until the expiration of the member’s term or the revocation of the member’s appointment by the Minister, whichever is earlier. 25 30

(2) The provisions of Part 7 of the principal Act in force immediately before the date of commencement of section 7 (called in this subsection and subsection (3) the old Part 7)

continue to apply in relation to the following as if that Part had not been repealed:

(a) any complaint or information made or referred to the Medical Council under section 39(1) of the old Part 7 before that date;

(b) any complaint or information made or referred by the Medical Council to the chairman of the Complaints Panel under section 39(3)(a) of the old Part 7 before that date;

(c) any notification by the Medical Council to a registered medical practitioner under section 39(3)(b) of the old Part 7 before that date;

(d) any right of appeal from any inquiry, investigation or proceedings that accrued before that date;

(e) any right to apply to a Review Committee under section 55(2) of the old Part 7 that accrued before that date.

(3) For the purposes of subsection (2) —

(a) any Complaints Panel, Complaints Committee, Disciplinary Tribunal, Health Committee or Interim Orders Committee appointed under a provision of the old Part 7, continues to exist to complete any proceedings before it and may take any action or make such order or decision as it could have taken or made under the relevant provisions of the old Part 7; and

(b) the Medical Council may take such action or make such order or direction as it could have taken or made in connection with such proceedings under the old Part 7.

(4) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Medical Registration Act (Cap. 174) (the Act) for the following purposes:

- (a) to implement changes to the Singapore Medical Council's disciplinary process based on the recommendations of the Workgroup to Review the Taking of Informed Consent and SMC Disciplinary Process in its report dated 28 November 2019;
- (b) to allow for representation from the Academy of Medicine Singapore, College of Family Physicians Singapore and Singapore Medical Association on the Singapore Medical Council (SMC);
- (c) to enable immediate interim orders to be made against registered medical practitioners where there is imminent danger to patients;
- (d) for better administration of the Act.

The Bill also makes a consequential amendment to the Supreme Court of Judicature (Amendment) Act 2019 (Act 40 of 2019).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert definitions for certain new terms used in the Act and to make consequential amendments to the definitions of existing terms arising from the re-enacted Part 7 and the Supreme Court of Judicature (Amendment) Act 2019.

Clause 3 amends section 4 to change the composition of the SMC to allow for representation from the Academy of Medicine Singapore, College of Family Physicians Singapore and Singapore Medical Association, and to reduce the number of representatives from each prescribed medical school from 2 to one.

Clause 4 makes a consequential amendment to section 6 following the amendments to section 4.

Clause 5 amends section 8 to reduce the number of years of experience in the practice of medicine required for registered medical practitioners to be members of the SMC.

Clause 6 repeals and re-enacts section 37 to provide that the SMC may cancel a practising certificate if the practising certificate was obtained by fraud, etc., or if the registered medical practitioner does not comply with prescribed requirements in connection with the practising certificate (including prescribed requirements for holding the practising certificate). A registered medical practitioner who is aggrieved by the cancellation may appeal to the Minister against the cancellation.

Clause 7 repeals and re-enacts Part 7. The new Part 7 has 11 Divisions comprising sections 38 to 59X, which set out provisions on disciplinary proceedings and inquiries.

In summary, the procedure is as follows:

- (a) any complaint or information (collectively called complaints) that is not made or provided by the SMC first proceeds to the Inquiry Committee stage;
- (b) any complaint that is made by the SMC does not need to go through the Inquiry Committee stage and proceeds instead to the Complaints Committee stage;
- (c) any complaint that relates to the physical or mental fitness of a registered medical practitioner to practise medicine may proceed directly to the Health Committee stage;
- (d) any complaint that involves a serious threat to patient health and safety may proceed directly to the Disciplinary Tribunal stage;
- (e) any complaint that is time-barred cannot proceed unless the President of the Disciplinary Commission is of the opinion that it is in the public interest to do so despite the expiration of the limitation period, and if he or she is of that opinion, the complaint will proceed directly to the Complaints Committee stage;
- (f) any aggrieved party may request a review of a Complaints Committee's direction or decision;
- (g) at the Inquiry Committee or Complaints Committee stage, the inquiry may be suspended if parties are engaged in mediation;
- (h) at any stage, the relevant Committee or Disciplinary Tribunal may appoint an investigator to investigate into the complaint;
- (i) at any stage, an immediate interim order or interim order may be made against the registered medical practitioner where necessary, pending the final resolution of the complaint;
- (j) only a decision by the Disciplinary Tribunal or an Interim Orders Committee is subject to an appeal to the High Court.

Division 1 — Voluntary removal, suspension, etc.

The new section 38 allows registered medical practitioners to voluntarily request the SMC to remove or suspend their registration, to impose or vary conditions or restrictions on their registration, or to suspend or cancel their practising certificates.

However, the SMC must not agree to the registered medical practitioner's request if the SMC believes that there is evidence of a complaint relating to his or her conduct in his or her professional capacity or of certain specified matters, including a conviction (whether in Singapore or elsewhere) of an offence implying

a defect in character that makes him or her unfit to practice medicine, or if an inquiry under Division 2 of the new Part 7 has started and is pending against the registered medical practitioner.

*Division 2 — Inquiries into complaints against and
information about registered medical practitioners*

The new section 39 provides for the appointment of the Complaints Panel. The new section 39 expressly provides for the appointment of legal professionals to the Complaints Panel. The term “legal professional” is defined in section 2 as amended by clause 2.

The new section 39 does not impose any upper limit on the number of registered medical practitioners, legal professionals and lay persons who may be appointed to the Complaints Panel, and reduces the number of years of experience required for registered medical practitioners to be appointed to the Complaints Panel, from 10 years to 8 years.

The new section 40 sets out the procedure for any complaint about a registered medical practitioner’s professional conduct or services, improper act that brings disrepute to the medical profession or unfitness to practise medicine, received by the SMC. The SMC may also make such complaints on its own motion for disciplinary proceedings to be taken against a registered medical practitioner. The SMC must (within the time specified in the new section 40) refer the complaints to the chairman of the Complaints Panel for the appointment of an Inquiry Committee, a Complaints Committee or a Health Committee. In certain cases, the SMC may refer the complaints directly to the President of the Disciplinary Commission for the appointment of a Disciplinary Tribunal. Inquiry Committees and the Disciplinary Commission are new features of the disciplinary process introduced in the Bill.

The new section 41 sets out the limitation period for complaints. The SMC must not refer to the chairman of the Complaints Panel or the President of the Disciplinary Commission any complaint that is made after the limitation period, except in specified circumstances.

The new section 42 sets out the circumstances in which complaints made after the limitation period may still be referred to the chairman of the Complaints Panel.

Division 3 — Inquiry Committees

The new section 43 provides that the chairman of the Complaints Panel must appoint an Inquiry Committee from amongst the members of the Complaints Panel, within 2 weeks after a complaint is referred by the SMC. An Inquiry Committee consists of the chairman and one other member, both of whom must be registered medical practitioners.

As the purpose of an Inquiry Committee is to filter and dismiss at an early stage complaints that are frivolous, vexatious, misconceived or lacking in substance, the Inquiry Committee must, within 3 weeks after the date the complaint is referred to it, decide whether to dismiss the complaint, issue a letter of advice, or refer the matter for a Complaints Committee's further inquiry. The Inquiry Committee may require any person to provide any relevant information or document, and also direct investigators to investigate the complaint.

Division 4 — Complaints Committees

The new section 44 provides for the appointment of a Complaints Committee, to further inquire into a complaint referred from an Inquiry Committee or directly from the SMC, from amongst the members of the Complaints Panel. The chairman of a Complaints Committee must be a registered medical practitioner (who is not the chairman of the Complaints Panel).

The new section 45 provides that a Complaints Committee must complete its inquiry within 3 months after the date the complaint is referred to it, and that it may only apply once to the chairman of the Complaints Panel for an extension of time that must not extend beyond the period of 6 months after the date the complaint is referred to the Complaints Committee. Only the High Court may grant any further extensions. The new section 45 also provides that in conducting an inquiry, a Complaints Committee may require the production of documents or require a person to give evidence, and may rely on an investigation report or direct that an investigation be undertaken.

The new section 46 sets out the findings that a Complaints Committee may make after its inquiry, including issuing letters of advice or warning, directing the registered medical practitioner to undergo counselling or undertake training, and dismissal of the complaint. However, if the Complaints Committee determines that cause of sufficient gravity for a formal inquiry exists, it may direct the appointment of a Health Committee or recommend to the SMC that a formal inquiry be held by a Disciplinary Tribunal. Alternatively, for complaints concerning a registered medical practitioner whose ability to practise medicine has been affected by health issues, the Complaints Committee may reach an agreement on appropriate measures with the registered medical practitioner without the need to convene a formal Health Committee inquiry. The decision by a Complaints Committee to refer the complaint to a Health Committee or recommend to the SMC that a formal inquiry be held by a Disciplinary Tribunal, as well as the determination of the SMC as to whether a formal inquiry by a Disciplinary Tribunal should be held, is final.

Division 5 — Mediation and withdrawal, etc.

The new section 47 provides that an Inquiry Committee or a Complaints Committee may, at any time after a matter is referred to it but before completion of its inquiry, refer the matter for mediation. The relevant Inquiry Committee or Complaints Committee may suspend the inquiry when mediation is ongoing.

The new section 48 provides that the SMC may give directions or take action for the continuation of disciplinary proceedings despite the withdrawal of a matter.

The new section 49 provides that an Inquiry Committee or a Complaints Committee may make costs orders against the complainant if the matter is dismissed for being frivolous, vexatious, misconceived or lacking in substance, and may when determining the costs take into account the parties' conduct in relation to mediation or other means of dispute resolution. A complainant who is aggrieved by such a costs order may appeal to the High Court against the order.

Division 6 — Investigations and assessments

The new section 50 sets out how an investigation is to be conducted. Where an investigation is directed by an Inquiry Committee, a Complaints Committee or a Disciplinary Tribunal, the relevant instructing committee must give the registered medical practitioner written notice of the investigation. The relevant instructing committee may call upon the registered medical practitioner to answer any allegation made against him or her, and he or she may submit a written explanation containing all relevant information and documents. An investigator may also ask the registered medical practitioner to undergo a performance assessment or fitness assessment, if so authorised by the Complaints Committee. Where, in the course of an investigation, an investigator receives information about the registered medical practitioner but unrelated to the complaint or information, or information relating to another registered medical practitioner, the investigator must make a report to the SMC.

The new section 51 sets out the committee or person to which the investigation report is to be submitted, and prohibits disclosure of the contents of the report except where there are compelling reasons to do so or the disclosure is required for administering or enforcing the Act or the Infectious Diseases Act (Cap. 137).

The new section 52 provides for performance assessments, and is largely similar to the current section 45.

The new section 53 provides for fitness assessments, and is largely similar to the current section 46.

Division 7 — Review by Review Committee

The new section 54 provides that any of the following persons may request the chairman of the Complaints Panel to appoint a Review Committee to review the direction or decision of a Complaints Committee:

- (a) a registered medical practitioner who is aggrieved by the direction or decision;
- (b) a complainant who is dissatisfied with the direction or decision;
- (c) the SMC if dissatisfied with the direction or decision, where it concerns a complaint made or matter referred by the SMC.

The new section 55 provides that the chairman of the Complaints Panel must appoint a Review Committee within 3 weeks after receiving a request for review. The new section 55 also provides for the composition of a Review Committee.

The new section 56 provides that a Review Committee must complete its inquiry within 3 months after the date of its appointment, and that it may only apply once to the chairman of the Complaints Panel for an extension of time that must not extend beyond the period of 6 months after the date of appointment of the Review Committee. Only the High Court may grant any further extensions.

The new section 56 also provides that a Review Committee may only make an order regarding whether the Complaints Committee had complied with procedural requirements under the Act or regulations made under the Act, or direct a further inquiry or rehearing where the Complaints Committee did not so comply or new material evidence is submitted to the Review Committee.

Division 8 — Disciplinary Commission and Disciplinary Tribunals

The new section 57 provides that the Minister may appoint a Disciplinary Commission to oversee the appointment of Disciplinary Tribunals and their processes and procedures (amongst other functions specified in the new section 57). The Disciplinary Commission may appoint committees for specific purposes, or delegate any of the Disciplinary Commission's powers or functions.

The new section 58 provides for the appointment of Disciplinary Tribunals by the President of the Disciplinary Commission, each comprising 2 registered medical practitioners of at least 10 years' standing and one legal professional who are all members of the Complaints Panel. Except where the new section 59 applies, the chairman of each Disciplinary Tribunal is to be so designated by the President of the Disciplinary Commission. If the chairman so designated is a registered medical practitioner, he or she must have at least 20 years' standing. The President of the Disciplinary Commission also has power to revoke the appointment of a Disciplinary Tribunal and appoint a new Disciplinary Tribunal in its place, remove any member or fill any vacancy.

The new section 59 provides that the President of the Disciplinary Commission may, in a case he or she thinks appropriate, apply to the Chief Justice to appoint a Judge or Judicial Commissioner of the Supreme Court as the chairman of the Disciplinary Tribunal. In addition, after consulting the President of the Disciplinary Commission, the Chief Justice may appoint, from amongst the members of the Complaints Panel, 2 registered medical practitioners of at least 10 years' standing as members of the Disciplinary Tribunal. The Chief Justice may exercise certain powers of the President of the Disciplinary Commission in relation to a Disciplinary Tribunal appointed by the Chief Justice, and may also delegate the exercise of any of the Chief Justice's powers to a Judge of the Supreme Court (who is not the chairman of the Disciplinary Tribunal).

The new section 59A provides for the proceedings of a formal inquiry by a Disciplinary Tribunal. A party to the proceedings may take out a subpoena, which may be enforced as if the subpoena were issued in connection with a civil action in the High Court. A Disciplinary Tribunal must make its finding and order within 6 months after its appointment. Where the Disciplinary Tribunal was appointed by the President of the Disciplinary Commission, the Disciplinary Tribunal may only apply once to the President of the Disciplinary Commission for an extension of time that must not extend beyond the period of 9 months after the date of appointment of the Disciplinary Tribunal, and only the High Court may grant any further extensions. Where the Disciplinary Tribunal was appointed by the Chief Justice, the Disciplinary Tribunal may apply to the Chief Justice for one or more extensions of time, each not exceeding 3 months.

The new section 59B provides that a Disciplinary Tribunal may appoint independent experts, but must first hear the views of the registered medical practitioner and the SMC before doing so. The Disciplinary Tribunal may also allow the registered medical practitioner and the SMC to appoint their own respective experts. The new section 59B also provides that a Disciplinary Tribunal may appoint an advocate and solicitor to advise the Disciplinary Tribunal on legal matters relating to the inquiry. An expert or advocate and solicitor appointed by the Disciplinary Tribunal may be paid remuneration of an amount determined by the Disciplinary Tribunal.

The new section 59C provides that in the course of inquiry into a complaint about a registered medical practitioner, a Disciplinary Tribunal may refer to a Health Committee for determination whether that registered medical practitioner's fitness to practice medicine is impaired by his or her physical or mental condition.

The new section 59D sets out the findings and orders that a Disciplinary Tribunal may make after its inquiry, including dismissal of the matter, removal or suspension of the registered medical practitioner's registration, imposition or variation of conditions or restrictions on his or her registration, censure, requiring the registered medical practitioner to give an undertaking to abstain from the

conduct complained of, and imposition of a penalty not exceeding \$100,000. For suspension of registration, there is no longer a minimum suspension period of 3 months. The Disciplinary Tribunal may also make costs orders.

The new section 59E sets out the further orders that a Disciplinary Tribunal may make, including an order for the removal or suspension of a registered medical practitioner's registration where the registered medical practitioner fails to comply with the conditions or restrictions earlier imposed by the Disciplinary Tribunal, or an order that any order the Disciplinary Tribunal makes is to take effect immediately despite an appeal, if the Disciplinary Tribunal is satisfied that it is necessary for the protection of members of the public or otherwise in the public interest, or in the best interest of the registered medical practitioner.

The new section 59F provides that an order for removal or suspension of registration by a Disciplinary Tribunal takes effect at the expiration of 30 days after the order is made, unless otherwise ordered by the Disciplinary Tribunal. Other orders are to take effect from the date the order is made.

The new section 59G provides that an appeal to the High Court against a decision or an order by the Disciplinary Tribunal must be made within 30 days after the registered medical practitioner is notified of the decision or order. A decision that is appealed against does not take effect until after the appeal is completed or withdrawn, unless otherwise ordered. An appeal may be made only by the registered medical practitioner concerned or the SMC. The mechanism which allows a complainant to apply to a Review Committee to direct the SMC to file an appeal (provided under the current section 55(2)) has been removed.

Division 9 — Health Committees

The new section 59H provides for the appointment of Health Committees, each comprising 3 members, at least one of whom must be a member of the SMC.

The new section 59I sets out the actions that a Health Committee may take if it finds that a registered medical practitioner's fitness to practise medicine is impaired by reason of his or her physical or mental condition, including suspension of registration and imposing or varying conditions or restrictions on his or her registration. A Health Committee may also recommend to the SMC to remove the name of a registered medical practitioner from a register. Any person aggrieved by the order or any variation of the order may appeal to the Minister.

Division 10 — Interim Orders Committees

The new section 59J provides for the appointment of Interim Orders Committees, each comprising 3 members, being either a member of the SMC or a member of the Complaints Panel. The chairman of the Complaints Panel, the President of the Disciplinary Commission, an Inquiry Committee, a Complaints

Committee, a Review Committee, a Disciplinary Tribunal or a Health Committee may refer a complaint to the SMC for the appointment of an Interim Orders Committee, or the SMC may refer a complaint to an Interim Orders Committee to determine whether an interim order should be made under the new section 59L.

The new section 59K provides that an Interim Orders Committee may, if it is satisfied, or if the SMC certifies that it is of the view, that the registered medical practitioner's conduct poses an imminent danger to patient health or safety, first make an immediate interim order without giving the registered medical practitioner an opportunity to be heard. The immediate interim order ceases to have effect (among other specified events) after one month if the registered medical practitioner is not given an opportunity to be heard on the question whether an interim order under the new section 59L should be made.

The new section 59L sets out the types of interim orders that may be made, namely the suspension of registration and the imposition of conditions or restrictions on the registration. The effective period of an interim order cannot exceed 18 months.

The new section 59M provides that interim orders must be periodically reviewed by the Interim Orders Committee that made the interim order or another Interim Orders Committee appointed in its place.

The new section 59N provides that an Interim Orders Committee may revoke, vary or replace any interim order earlier made.

The new section 59O requires an Interim Orders Committee to give the affected registered medical practitioner a right to appear before the Interim Orders Committee and be heard on whether an order should be made.

The new section 59P provides that the SMC may apply to the High Court to extend the period for which an interim order has effect. The new section 59P also enables the registered medical practitioner to apply to the High Court to revoke an interim order, vary any condition or restriction imposed by an interim order, or substitute the period specified in an interim order.

The new section 59Q provides that an interim order ceases to be in force when the main proceedings under the new Part 7 are concluded, and sets out the events which mark the conclusion of the main proceedings.

The new section 59R provides that where a person's registration is suspended under an interim order, he or she is not to be regarded as being registered even though his or her name still appears in the register, but his or her rights and privileges are revived immediately after the expiration or revocation of the interim order.

Division 11 — Miscellaneous

The new section 59S provides that the SMC may appoint an advocate and solicitor to advise any Inquiry Committee, Complaints Committee, Review Committee, Health Committee or Interim Orders Committee on any legal matter relating to an inquiry, and may pay the advocate and solicitor remuneration as determined by the SMC.

The new section 59T provides for the restoration of names of medical practitioners removed from a register whether voluntarily or under an order. Where the name of a medical practitioner was removed under an order, the SMC may restore that name only in specified circumstances.

The new section 59U provides for applications to the High Court for extensions of time to complete an inquiry under the new Part 7. Each extension of time granted by the High Court must not exceed 3 months. This will ensure that disciplinary proceedings do not become unduly protracted, except where in the opinion of the High Court the circumstances warrant an extension. The application also must not be heard in open court, and this is intended to ensure that the registered medical practitioner concerned does not suffer undue prejudice from reporting on the case as the complaint may ultimately be dismissed.

The new section 59V sets out the administrative provisions regarding meetings and proceedings of any Inquiry Committee, Complaints Committee, Review Committee, Health Committee or Interim Orders Committee.

The new section 59W provides that an employee of the Ministry of Health is not disqualified from being a member of a committee or a Disciplinary Tribunal under the new Part 7 by reason only that he or she is so employed. This provision is largely similar to the current section 38(5).

The new section 59X provides for confidentiality of information obtained in the course of a performance or fitness assessment, and applies not only to members of the panel conducting the assessment but investigators and members of the committees under the new Part 7, the SMC and the Disciplinary Commission.

Clause 8 amends section 60 to provide for the payment of penalties collected under the Act into the Consolidated Fund instead of the funds of the SMC.

Clause 9 amends section 60A to provide that obstruction of the exercise of an investigator's powers or failure to comply with an investigator's requisition or order is an offence only where it is done without lawful excuse.

Clause 10 repeals section 61 on the appointment of legal assessors to the SMC. The clause also inserts a new section 61 to provide that a legal officer of the SMC who has been called to the Singapore Bar may represent the SMC in any proceedings under the Act or in any civil proceedings, without the need to hold a practising certificate.

Clause 11 inserts new sections 65A and 65B.

The new section 65A provides that the chairman of the Complaints Panel, the President of the Disciplinary Commission, members of the SMC, the Disciplinary Commission, any committee under the Act or a Disciplinary Tribunal, employees of the SMC or Disciplinary Commission, and any other person acting under the direction of the SMC or the Disciplinary Commission are deemed to be public servants for the purposes of the Penal Code (Cap. 224) in the performance of their functions and duties under the Act.

The new section 65B is a general exemption provision allowing the Minister to exempt any person or any class of persons from all or any of the provisions of the Act.

Clause 12 amends the section heading of section 66 to distinguish it from the new section 65B.

Clause 13 amends section 66A to provide for the payment of composition sums into the Consolidated Fund, following the amendments to section 60 by clause 8.

Clause 14 repeals and re-enacts section 68 to provide for protection from personal liability for the chairman of the Complaints Panel, the President of the Disciplinary Commission, and members of the SMC, the Disciplinary Commission, any committee under the Act or a Disciplinary Tribunal, employees of the SMC or the Disciplinary Commission, and any other person acting under the direction of the SMC or the Disciplinary Commission.

Clause 15 inserts a new section 68B on the service of documents.

Clause 16 inserts new paragraphs *(ea)* and *(eb)* in section 70(2) to allow regulations to be made under section 70(1) in respect of the right of hearing for registered medical practitioners in respect of whom an interim suspension order or interim restriction order has been made, and for the procedure for the withdrawal of charges by the SMC in any proceedings under the new Part 7. The clause also makes a drafting refinement to section 70(2)(*e*) to align with paragraph *(b)* of the new section 70A that is inserted by clause 17.

Clause 17 inserts a new section 70A to allow the Minister to make rules on matters relating to the Disciplinary Commission and the practice and procedure of Disciplinary Tribunals.

Clause 18 amends section 71 to enable saving and transitional provisions to be made when amending a Schedule to the Act.

Clause 19 amends section 72 to delete a provision on the restoration of names to a register, as the new section 59T provides for this.

Clause 20 amends section 75 to delete a spent provision.

Clause 21 makes miscellaneous amendments to the Act consequent to the changes in the Supreme Court structure in the Supreme Court of Judicature (Amendment) Act 2019, and to change references to “practise as a medical practitioner” to “practise medicine” for consistency.

Clause 22 makes a consequential amendment to the Schedule to the Supreme Court of Judicature (Amendment) Act 2019 by deleting item 96 which is no longer required upon the repeal and re-enactment of Part 7.

Clause 23 contains saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
