

[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

further to amend the Pakistan Medical and Dental Council Ordinance, 1962

WHEREAS it is expedient further to amend the Pakistan Medical and Dental Council Ordinance, 1962 (XXXII of 1962) for the purposes hereafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. – (1) This Act may be called the Pakistan Medical and Dental Council (Amendment) Act, 2016.

(2) It shall come into force at once and shall be deemed to have taken effect on the 28th day of August, 2015.

2. Substitution of section 3, Ordinance XXXII of 1962. – In the Pakistan Medical and Dental Council Ordinance, 1962 (XXXII of 1962), hereinafter referred to as “the Ordinance” for section 3, the following shall be substituted, namely:-

“3. Constitution and composition of the Council. – (1) The Federal Government shall, by notification in the official Gazette, constitute a Council consisting of the following members, namely:-

- (a) one member each from the Senate and the National Assembly to be nominated by the Chairman or, as the case may be, the Speaker from amongst the members of the respective House;
- (b) Secretary, Health Department of each Province shall be *ex-officio* member or the respective Health Departments may nominate the next senior officer of the Health Department of each Province, to represent it;
- (c) Director - General Health of the controlling Ministry as *ex-officio* member;
- (d) Surgeon General of the Armed Forces Medical Services as *ex-officio* member;

- (e) four members to be nominated by the Federal Government;
- (f) one member, belonging to the legal profession, to be nominated by the Chief Justice of Pakistan;
- (g) two members from the field of social service and philanthropy, with particular reference to patient welfare, to be nominated by the Federal Government having international standing and good repute with experience of at least fifteen years in the field;
- (h) one member each from every Province to be elected from amongst themselves by the faculties of all public sector Pakistan Universities including their constituent and affiliated colleges;
- (i) one member each from every Province to be elected from amongst themselves by the faculties of all private sector Pakistan Universities including their constituent and affiliated colleges ;
- (j) one member from each Province, Federally Administered Tribal Areas (FATA) and Islamabad Capital Territory, to be elected amongst themselves by the registered medical practitioners; and
- (k) one member from each Province, Federally Administered Tribal Areas (FATA) and Islamabad Capital Territory, to be elected amongst themselves by the registered dental practitioners.

(2) The Federal Government, after notification of the members of Council, shall call the first meeting for the purpose of electing the Executive Committee, President and Vice-President. No member shall assume office as member of the Council till he signs a declaration of no conflict of interest. At least two third of the total membership of the Council should be in attendance in this meeting.

(3) All office holders and executive committee members elected by the Council shall be notified by the Federal Government in the official Gazette.

(4) No act done by the Council shall be invalid on the ground merely of existence of any vacancy in or any defect in the constitution of the Council after the Council has been constituted by a notification in the official Gazette by the Federal Government.

(5) The President shall be the head of the Council and shall be the competent authority for all employees of the Council and the aggrieved employees may file a representation against the decision of the President, to the Secretary of the controlling Ministry of the Council.”.

3. Insertion of new section 3A, Ordinance XXXII of 1962.- In the Ordinance, the following new section shall be inserted, namely:-

“3A. Conflict of Interest.- (1) A member of the Council shall be responsible to disclose any conflict of interest as and when arises and shall also file a declaration for non-conflict of interest annually.

(2) The Federal Government may cancel basic membership of any member of the Council if he is found, on inquiry to have conflict of interest.”.

4. Insertion of new section 3B, Ordinance XXXII of 1962.- In the Ordinance, the following new section shall be inserted, namely:-

“3B. Policy issues relating to the affairs of the Council.- The Federal Government shall from time to time make policy directions to the Council and in the discharge of its function, the Council shall be guided on questions of policy given to it, and whether the directions are in the matter of policy or otherwise, the decision of Federal Government shall be final.”.

5. Substitution of section 4, Ordinance XXXII of 1962. – In the Ordinance, for section 4, the following shall be substituted, namely: -

“4. Mode of election.— (1) All the elections under the Ordinance shall be conducted by the Election Committee, to be constituted by the Federal Government, having three members including the nominee of the Chief Justice of Pakistan who shall also be the Chairman of the Election Committee. All the elections under the Ordinance shall be held and conducted in the manner as may be prescribed, from time to time.

(2) All disputes relating to any elections under the Ordinance shall be initially decided by the majority decision of the Election Committee. Any person, if aggrieved by the order so passed, shall submit his complaint before the Federal Government which shall decide the complaint within ten working days and this decision shall be final.”.

6. Substitution of section 5, Ordinance XXXII of 1962. – In the Ordinance, for section 5, the following shall be substituted, namely: -

“5. Restrictions on nominations and elections.- (1) No person shall be eligible for nomination or election, except under paragraphs (b), (f) and (g) of sub-section (1) of section 3, unless he is a registered medical practitioner or a registered dentist, as the case may be.

(2) No person shall be eligible for election under paragraphs (h) and (i) of sub-section (1) of section 3 unless he is actively teaching as assistant, associate or full professor.

(3) No person shall be eligible for election under paragraphs (j) and (k) of sub-section (1) of section 3 unless he has had at least ten years of standing in the medical or dental practice, as the case may be, after the completion of house job.

(4) No person shall be eligible to be member under more than one paragraph of sub-section (1) of section 3, during the tenure of the Council.

(5) The Federal Government shall not consider any person for its nomination seats who may have filed his papers to contest election under any paragraph of sub-section (1) of section 3.

(6) No person shall be considered for nomination under any paragraph who has been a member of the Council in any capacity whatsoever, during the last five years.

(7) For the purposes of making nominations under paragraph (e) of sub-section (1) of section 3, the Federal Government shall ensure that all such nominees are of good standing in their respective fields of practice, with post graduate qualification from a recognized University.

(8) No person, shall be eligible to become a member of the Council if he himself, his spouse or children has any conflict of interest as owner or having any financial interest in a medical or dental institution.

(9) For the purpose of paragraphs (h) and (i) of section 3, the private sector faculties shall vote only for private sector member and public sector faculties shall vote only for public sector member irrespective of their affiliation with Pakistan Universities.”.

7. Substitution of section 10, Ordinance XXXII of 1962. - In the said Ordinance, for section 10 the following shall be substituted, namely:-

“10. Executive Committee.- (1) The Executive Committee shall consist of nine members, of whom six shall be elected by the Council from amongst its members and of which at least one shall be a dental practitioner.

(2) The Director General Health, President and Vice-President of the Council shall be members of the Executive Committee.”.

8. Substitution of section 33, Ordinance XXXII of 1962. – (1) In the Ordinance, for section 33, the following shall be substituted, namely: -

“33. Power to make Regulations.- (1) The Council may, with the previous sanction of the Federal Government, make Regulations generally to carry out the purposes of this Ordinance, and, without prejudice to the generality of this power, such Regulations may provide for-

- (a) the management of the property of the Council, its maintenance and audit of its accounts;
- (b) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

- (c) the powers and duties of the President and Vice - President;
- (d) the mode of appointment of the Executive Committee and other Committees of the Council and their powers, the summoning and holding of meetings, and the conduct of business of such Committees;
- (e) code of practice and ethics for the medical and dental practitioners;
- (f) the appointment, powers, duties and procedures of medical and dental inspectors;
- (g) the conditions and procedure for maintenance, compilation and publication of the Register of medical and dental practitioners and of health care providing facilities and their minimum requirements and the fees to be charged for registration and, if necessary, for opening of sub-offices or branches for this purpose;
- (h) the procedure for any inquiry under sub-section (1) of section 31;
- (i) prescribing a uniform minimum standard of courses of training for obtaining graduate and post-graduate medical and dental qualifications included in the First, Third and Fifth Schedules;
- (j) prescribing minimum requirements for the content and duration of courses of study as aforesaid;
- (k) prescribing the conditions for admission to courses of training as aforesaid;
- (l) prescribing minimum qualifications and experience required of teachers for appointment in medical and dental institutions;

- (m) prescribing the standards of examinations, methods of conducting the examinations and other requirements to be satisfied for securing recognition of medical and dental qualifications under this Act;
- (n) prescribing the qualifications, experience and other conditions required for examiners for professional examinations in medicine and dentistry antecedent to the granting of recognized medical and dental and additional medical and dental qualifications;
- (o) registration of medical or dental students at any medical or dental college or school or any university and the fees payable in respect of such registration;
- (p) laying down criteria including regulations for university affiliation conditions and requirements for recognition and continuation of recognition and for grant of status of a teaching institution of institutions and organizations under this Act and on all connected matters of inspection of medical and dental institutions for recognition and continuation of recognition and inspection of examinations in these institutions and fee for such inspections;
- (q) terms and conditions of service for all employees appointed under section 9; and
- (r) prescribing a uniform minimum standard for Continuous Professional Development for registered graduate and post-graduate medical and dental practitioners.”.

9. Substitution of section 36B, Ordinance XXXII of 1962. – In the Ordinance, for section 36B, the following shall be substituted, namely: -

“36B. Transitory Provisions.- (1) On the commencement of the Pakistan Medical and Dental Council (Amendment) Ordinance, 2015 (XI of 2015), the members already notified by the Federal Government as the members of the Council shall automatically stand de-notified and shall cease to act or be the members of the Council or the Executive Committee, as the case may be.

(2) The Federal Government shall immediately notify a Management Committee for the interim period which shall perform all or any functions of the Council including day to day affairs and any other tasks as directed by the Federal Government, from time to time.

(3) The Federal Government shall notify the nominee members of the Council when the election results are ready to be announced. However, the nominee of the Chief Justice of Supreme Court of Pakistan shall be immediately notified so that he alongwith two other members of the Management Committee, conduct the elections of the Council.

(4) Elections of members and office bearers shall be conducted and completed by the Election Committee as provided for in sub-section (1) of section 4, within one hundred and twenty days from the commencement of the Pakistan Medical and Dental Council (Amendment) Ordinance, 2015 (XI of 2015).

(5) The Management Committee shall comprise of as many as five members who shall be selected from the fields of medicine, finance and law. The Federal Government shall nominate one of them as the Chairperson of the said Committee:

Provided that any person who has been a member of the Council or has worked for the Council in any capacity during the period of last five years, shall not be appointed as a member of the Management Committee.

(6) The Management Committee shall stand dissolved as soon as the members of the new Council sign the declaration of no conflict of interest, as provided for in sub-section (2) of section 3.

(7) Notwithstanding anything contained in any law, order or judgment of any Court including the Superior Courts, for the time being in force, the provisions of the Pakistan Medical and Dental Council (Amendment) Ordinance, 2015 (XI of 2015), shall prevail.”.

10. Insertion of new section 36C, Ordinance XXXII of 1962. – In the Ordinance, after section 36B, the following new section shall be inserted, namely: -

“36C. Validation of action, etc.- Anything done action taken, orders passed, instruments made, notifications issued, agreements made, proceedings initiated, processes or communication issued, powers conferred, assumed or exercised, by the Council or its officers including the conduct of elections of the Council and related matters on or after the **25th April 2016** and before the commencement of this Act, shall be deemed to have been validly done, made, issued, taken initiated, conferred, assumed, exercised, conducted and done and the provisions of this Act shall have, and shall be deemed always to have had effect accordingly.”.

STATEMENT OF OBJECTS AND REASONS

In the Year 2012, a large number of amendments were made in the Pakistan Medical and Dental Council Ordinance, 1962 whereby interests of private colleges were inculcated into the composition of the Council and those who were to be regulated became the regulators.

Following the Election 2013, a flood of litigations has been opened up challenging the integrity and transparency of election process. While the Lahore High Court stopped the Federal Government to notify the members, some members illegally occupied the offices in violation of court's order. In the circumstances, the Federal Government through Ordinance No. III of 2014 dissolved the controversial Council. However, the said Ordinance was disapproved by the Senate of Pakistan on 23-04-2014. As a consequence a vacuum came to prevail after 23-04-2014.

The Standing Committee of the National Assembly on National Health Services, Regulations and Coordination has continuously been showing concerns over dismal state of affairs of the Council and recommended to take necessary actions. Besides, the Islamabad High Court constituted a three member Commission to look into affairs of the Council which pointed out mal-administration and conflict of interest of members and suggested ways forward for regaining repute at national and international level.

The Supreme Court of Pakistan in Constitutional Petition No. 10/2014 took notice of this appalling states of affairs and directed the Federal Government to take necessary steps to fill such vacuum.

The Bill is designed to achieve the aforesaid objectives.

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Minister in-Charge