

# **The West Bengal Medical Council (Temporary Supersession) Act, 1985**

WEST BENGAL

India

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### **Act 37 of 1985**

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The West Bengal Medical Council (Temporary Supersession) Act, 1985 West Bengal Act 37 of 1985 [11th March, 1986.] Assent of the President of India was first published in the Calcutta Gazette, Extraordinary, of the 11th March, 1986. An Act to provide for the supersession of the West Bengal Medical Council for a limited period and for the carrying on of its administration during the period of supersession. Whereas it is expedient in the public interest to supersede the West Bengal Medical Council for a limited period with a view to facilitating its reorganisation for more efficient functioning and to provide for the carrying on of its administration during the period of supersession; It is hereby enacted as follows:-

### **1. Short title and commencement.**

(1) This Act may be called the West Bengal Medical Council (Temporary Supersession) Act, 1985. (2) It shall come into force at once.

### **2. Definitions.**

- In this Act, unless the context otherwise requires, - (a) "the Act" means the Bengal Medical Act, 1914; (b) "the ad hoc Council" means the West Bengal Medical Council (ad hoc) referred to in clause (b) of section 4; (c) "the Council" means the West Bengal Medical Council constituted under the Act; (d) other words and expressions have the meanings respectively assigned to them in the Act.

### **3. Supersession of the Council.**

(1) With effect from the date of coming into force of this Act, and for a period of two years from such date, the Council shall stand superseded. (2) The State Government may, if it considers necessary so

to do, by notification published in the Official Gazette, extend from time to time the period of supersession referred to in sub-section (1) by any period not exceeding six months at a time, so, however, that the aggregate period of supersession under this section shall not exceed three years.(3)[ Notwithstanding the provisions of section 9, the period of supersession of the Council shall be held to include any period which may elapse between the expiry of the said period of supersession and the date of reconstitution of the ad hoc Council under sub-section (1) of section 5A.] [Sub-Section (3) inserted by West Bengal Act 34 of 1989.]

#### **4. Consequences of [reconstitution] [Substituted 'supersession' by Act No. 7 of 2012, dated 17.5.2012].**

- With effect from the date of [reconstitution of the ad hoc Council] [Substituted 'supersession of the Council' by Act No. 7 of 2012, dated 17.5.2012.],-(a)all the members of the Council and the Executive Committee constituted under the Act shall vacate their respective offices, and(b)all the powers and functions of the Council and of the Executive Committee as aforesaid under the Act or the rules or the regulations made, thereunder shall, respectively, be exercised and performed by the ad hoc Council to be known as the West Bengal Medical Council (ad hoc).[5. \* \* \*] [Omitted by Act No. 7 of 2012, dated 17.5.2012.]

5. Constitution of the ad hoc Council.- (1) The ad hoc Council shall consist of the following members:- (a) (i) one member of the Council for Post-Graduate Studies in Medicine, Nursing, Homoeopathy, Ayurved and Dental Science of the University of Calcutta, and(ii) one member of the Council for Undergraduate Studies in Medicine, Dental Science, Homoeopathy, Veterinary Science, Nursing and Ayurved of the University of Calcutta;(b) one member of the Council for Undergraduate Studies in Medicine of the University of Burdwan;(c) one member of the Council for Undergraduate Studies in Medicine of the University of North Bengal;(d) two members of the Governing Body of the State Medical Faculty of West Bengal;(e) seven Teachers of Medical Colleges or Institutions affiliated to the University of Calcutta or the University of Burdwan or the University of North Bengal of whom at least-(i) one shall be from a Medical College affiliated to the University of Burdwan, and(ii) one shall be from a Medical College affiliated to the University of North Bengal;(f) one registered practitioner, being a Licentiate in medicine;(g) two registered practitioners, being Graduates in medicine;(h) one representative of the Department of Health and Family Welfare, Government of West Bengal;(i) one representative of the Directorate of Health Services, Government of West Bengal;(j) three persons nominated by the State Government.(2) The members referred to in clauses (a) to (i) of sub-section (1) shall be nominated by the State Government.(3) The State Government shall nominate one of the persons referred to in clause (j) of sub-section (1) to be the President of the ad hoc Council.

#### **5A. [ Reconstitution of the ad hoc Council. - [(1) Notwithstanding anything contained in this Act,-**

(a)the State Government shall, at any time, if it considers necessary so to do, by notification published in the Official Gazette, reconstitute the ad hoc Council which shall consist of not more than ten persons as its members, who shall be persons of eminence and of unimpeachable integrity

in the fields of medicine and medical education, and who may be either nominated members or members, ex officio, to be appointed by the State Government, one of whom shall be named by the State Government as the President of the ad hoc Council: Provided that the ad hoc Council shall at any time elect from amongst its members one person as Vice President of the ad hoc Council: Provided further that the aggregate period for which the ad hoc Council may be reconstituted shall not exceed three years: Provided also that one-half of the members of the ad hoc Council shall constitute the quorum for its meetings: Provided also that the ad hoc Council shall have the liberty of co-opting more number of members; (b) the aggregate period of supersession of the Council under section 3 shall be deemed to have been extended for the period for which the ad hoc Council is reconstituted or till the Council is reconstituted in accordance with the provisions of the Act, whichever is earlier. ] (2) The provisions of sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any judgement, decree or order of any court, tribunal or other authority or in any instrument having effect by virtue of any law other than this Act. ] [Section 5A inserted by West Bengal Act 34 of 1989.]

## **6. Validation of act or proceeding of the ad hoc Council.**

- No act or proceeding of the ad hoc Council shall be invalid or called in question by reason of the existence of any vacancy, initial or subsequent, in the ad hoc Council.

## **7. Filling up of vacancies in the ad hoc Council.**

- Any vacancy in the ad hoc Council occurring by reason of death, resignation or otherwise shall be filled up by the State Government, in so far as such filling up is not inconsistent with the provisions of this Act.

## **7A. [ Constitution of the Penal and Ethical Cases Committee. [Inserted by Act No. 7 of 2012, dated 17.5.2012.]**

- (i) The ad hoc Council may enquire into complaint against any of its registered Medical Practitioners either suo motu or on the basis of any complaint made to the ad hoc Council, as also all pending cases, in respect of infamous conduct in any professional respect of the concerned Medical Practitioner or Practitioners, as the case may be. (2) The ad hoc Council may appoint the Penal and Ethical Cases Committee for causing preliminary investigation on the complaint referred to under sub-section (1). (3) The Penal and Ethical Cases Committee appointed under sub-section (2) shall consist of the following:-(a) one member of the ad hoc Council, who shall act as Chairman of the Penal and Ethical Cases Committee; (b) three registered Medical Practitioners with this Council, one of whom shall be expert in the concerned field; and (c) the Registrar of the Council.

## **7B. Constitution of Executive Committee.**

(1) The ad hoc Council shall constitute an Executive Committee which shall consist of the following:-(a) the President of the ad hoc Council; (b) three members of the ad hoc Council selected

from amongst themselves; and(c)the Registrar of the Council.(2)The Executive Committee shall perform such functions as delegated to it by the ad hoc Council.]

### **8. Power to remove difficulties.**

- If, by reason of the provisions of the Bengal Medical Act, 1914, any difficulty arises in giving effect to the provisions of this Act, the ad hoc Council shall refer such difficulty to the State Government which may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

### **9. The Council to continue as a body corporate.**

- For the removal of doubts, it is hereby declared that nothing in this Act shall effect or imply in any way the dissolution of the Council as a body corporate as constituted under the Act.