

The West Bengal Homoeopathic System of Medicine Act, 1963

WEST BENGAL

India

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Act 33 of 1963

- Published on 6 November 1963
- Commenced on 6 November 1963
- [This is the version of this document from 6 November 1963.]
- [Note: The original publication document is not available and this content could not be verified.]

The West Bengal Homoeopathic System of Medicine Act, 1963 West Bengal Act 33 of 1963 [6th November, 1963.] An Act to provide for the development of the Homoeopathic system of medicine, to regulate the teaching and practice thereof and to deal with certain other connected matters. It is hereby enacted as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Homoeopathic System of Medicine Act, 1963. (2) It extends to the whole of West Bengal. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a1) ["Central Council" shall have the meaning assigned to it in the Homoeopathy Central Council Act, 1973;] [Clause (a1) inserted by W.B. Act 27 of 1985.] (1) "Council" means the Council of Homoeopathic Medicine, West Bengal, constituted under section 3; (2) "General Council and State Faculty of Homoeopathic Medicine, West Bengal" means the General Council and State Faculty of Homoeopathic Medicine, West Bengal, established by resolution No. 1568 Medl., dated 24th June, 1941 of the Government of Bengal as subsequently amended; (3) "Homoeopathy" means the system of medicine founded by Dr. Hahnemann and includes the Biochemic system of medicine founded by Dr. Schussler and the expression "Homoeopathic" shall be construed accordingly; (4) "member" means a member of the Council; (5) "prescribed" means prescribed by rules; (6) "President" means the President of the Council; (7) "Register" means the Register of Homoeopathic practitioners maintained under this Act; (8) "registered Homoeopathic practitioner" means a Homoeopathic practitioner registered under the provisions of this Act; (9) "Registrar" means the Registrar of the Council; (10) "regulations"

means regulations made by the Council under this Act;(11)"rules" means rules made by the State Government under this Act;(12)"teacher" means any person appointed by a Homoeopathic institution affiliated to, or recognised by, the Council [or a University or any other body constituted by the State Government under any law for the purpose of developing Homoeopathic system of medicine] [Words inserted by W.B. Act 27 of 1985.] to hold a teaching post;(12a)["University" means any University in India established by law and having the Faculty of Homoeopathy and includes a University in India established by law in which instructions, teaching, training or research in Homoeopathy System of Medicine is provided;] [Clause (12a) inserted by W.B. Act 27 of 1985.](13)"Vice-President" means the Vice-President of the Council.

3. Constitution of the Council of Homoeopathic Medicine, West Bengal.

- As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, establish a body corporate with perpetual succession and a common seal named the Council of Homoeopathic Medicine, West Bengal. The Council shall be entitled to acquire and hold movable and immovable property, to transfer such property, to contract and to do all things necessary for the purposes of this Act and shall by its name sue and be sued.

4. Transitional provisions.

- Upon the constitution of the Council -(1)the General Council and State Faculty of Homoeopathic Medicine, West Bengal shall cease to exist and the assets and liabilities thereof shall stand transferred to the Council;(2)any order passed, any appointment made, anything whatsoever begun or done by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been passed, made, begun or done by the Council.

5. Composition of the Council.

- [(1) The Council shall consist of the following members:-(a)a President nominated by the State Government :Provided that on the expiry of the first two terms of office of the President as specified in sub-section (1) of section 13, the State Government shall nominate a President from among three persons recommended by the Council in such manner as may be prescribed;(b)five members, nominated by the State Government, of whom three shall be registered Homoeopathic practitioners;(c)one member elected by the members, other than ex officio members, of the Senate of the University of Calcutta from amongst themselves;(d)the Head of the Homoeopathic Research Institute, ex officio, when such an Institute is established:Provided that until such an Institute is established, any other person may be nominated by the State Government;(e)the Principal of a Homoeopathic College, affiliated to the Council, nominated by the State Government;(f)one member elected by the members of the West Bengal Legislative Assembly from amongst themselves, if he is not already a member of the Council;(g)one member elected by the teachers of Homoeopathic Colleges, affiliated to the Council, from amongst themselves;(h)eight members, who are citizens of India, elected by the registered Homoeopathic practitioners from amongst themselves from such constituencies and in such manner as may be prescribed, of whom at least four shall be

the practitioners whose names are entered in Part A of the Register.](2)Notwithstanding anything contained in the foregoing sub-section or elsewhere in this Act, on the first constitution of the Council all the members of the Council shall be nominated by the State Government and the State Government shall also nominate one of the members to be Vice-President.

6. Power of State Government to nominate members in certain circumstances.

- If the nominating authority referred to in clause (c) of sub-section (1) of section 5, or the electoral body referred to in clause (f) of the said sub-section fails by the prescribed date to nominate or elect the requisite number of member or members which such authority or body is entitled to nominate or elect, the State Government shall fill up the office of such member or members by nomination of a person or persons qualified to be nominated or elected by such authority or body. Any person so nominated by the State Government shall be deemed to have been duly nominated or elected a member by such authority or body.

7. Disqualification for nomination or election.

- A person shall be disqualified for being nominated or elected a member of the Council, if -(1)he has been convicted of any offence involving moral turpitude;(2)he is an undischarged insolvent;(3)he has been adjudged by a competent court to be of unsound mind;(4)he is an employee of the Council;(5)he has directly or indirectly any share or interest in any contract with, by or on behalf of the Council;(6)he has been dismissed from the service of the Central Government or a State Government or a local authority on a charge of gross misconduct or an offence involving moral turpitude;(7)he is a person under the age of 25.

8. Publication of names of members.

- The name of every member nominated or elected under section 5 or section 6 shall be published by the State Government in the Official Gazette.

9. Cessation of membership.

- A person shall cease to be a member of the Council -(1)if, without obtaining the permission of the Council, he is absent from three consecutive meetings of the Council; or(2)if having been nominated or elected as a registered Homoeopathic practitioner he ceases to be such a registered practitioner; or(3)if he becomes subject to any of the disqualifications referred to in section 7.

10. Filling of casual vacancies.

(1)If any member dies or resigns his office or ceases to be a member for any other reason the vacancy shall be filled up within six months by a fresh nomination or election under section 5 or section 6, as the case may be, and the member so nominated or elected shall hold office for the

unexpired period of the term of office of the member whose place he fills.(2)If any member referred to in clauses (b), (c), (d), (e) or (f) of sub-section (1) of section 5 is nominated President under the proviso to clause (a) of that sub-section, there shall be a vacancy in that membership which shall be filled up under sub-section (1).

11. Term of office of members.

(1)Subject to the provisions of section 10, the term of office of the members nominated or elected under section 5 or section 6 shall be for four years commencing from the date of the first meeting of the Council after its first constitution or any subsequent periodical reconstitution, as the case may be.(2)The term of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period of four years and the date of the first meeting of the Council following its reconstitution at which a quorum is present.

12. Resignation.

- The President, the Vice-President or a member may resign his office by writing under his hand addressed to the State Government, of which he shall send a copy to the Council.

13. The President.

(1)The President shall hold office for the period mentioned in section 11 or until his successor is nominated, whichever is longer.(2)If the President dies or resigns his office or ceases to hold office, the State Government shall nominate another person as President and such President shall hold office for the unexpired portion of the term of office of the previous President in whose place he is nominated.(3)In the event of the occurrence of any vacancy in the office of the President under sub-section (2), the Vice-President shall discharge the functions of the President until a new President is nominated.(4)When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

14. The Vice-President.

(1)The members of the Council shall, at the first meeting after every periodical reconstitution, elect a Vice-President from among themselves in such manner as may be prescribed.(2)The Vice-President shall hold office for the period mentioned in section 11 :Provided that a Vice-President, shall cease to hold office if he ceases to be a member of the Council.(3)If the Vice-President dies or resigns his office or ceases to hold office, the members of the Council shall elect, from among themselves, another Vice-President in such manner as may be prescribed and such Vice-President shall hold office for the unexpired portion of the term of office of the previous Vice President whose office he fills.

15. Executive Committee.

(1)The members of the Council shall constitute from among themselves, an Executive Committee to perform such functions, discharge such duties and exercise such powers as may be delegated to it by the Council.(2)The Executive Committee shall consist of the President and the Vice-President, ex-officio, and five other members elected by the members of the Council in the prescribed manner from among themselves.(3)The President and the Vice-President of the Council shall be the President and Vice-President, respectively, of the Executive Committee.(4)The term of office of an elected member of the Executive Committee shall be two years from the date of his election, but, subject to his being a member of the Council, he shall be eligible for re-election to the Executive Committee.(5)No business shall be transacted at any meeting of the Executive Committee unless a quorum of three members be present.(6)The Council may also, subject to the approval of the State Government, from time to time appoint one or more Committees consisting of members of the Council or outsiders or both, on such terms as may be approved by the State Government, for the purpose of advising it on such matters as it deems necessary and may appoint a Chairman for any such Committee who shall convene and preside over the meetings of the Committee.

15A. [Ad-hoc Committee. [Section 15A inserted by W.B. Act 1 of 1978.]

- [(1) Notwithstanding anything contained elsewhere in this Act -(a)if, at any time, it appears to the State Government that the nomination or election to the Council has not taken place in accordance with the provisions of this Act or a period of more than four years from the date of the first meeting of the Council has elapsed, or(b)if the results of the election to the Council held in accordance with the provisions of this Act or the rules made thereunder have not been, or could not be, published for any reason whatsoever for a period of more than one year from the date of such election, the State Government may, by order published in the Official Gazette, appoint an Ad-hoc Committee consisting of not more than seven members including a President and a Vice-President.](2)Upon such appointment of the Ad-hoc Committee, the Council shall be deemed to have been dissolved, and all the members of the Council shall be deemed to have vacated their offices, with effect from the date of the order.(3)If any vacancy occurs in the Ad-hoc Committee by reason of death, resignation or removal of a member, or otherwise, the State Government shall appoint another person to fill up the vacancy. The person so appointed shall hold office for the unexpired period of the term of office of the member whose place he fills :Provided that no act or proceedings of the Ad-hoc Committee shall be called in question or become invalid merely by reason of any vacancy or vacancies in the Ad-hoc Committee.(4)The State Government may at any time, by notification in the Official Gazette, remove any member of the Ad-hoc Committee on the ground of incapacity or misbehaviour, or for any other good or sufficient reason.(5)The President shall preside over all meetings of the Ad-hoc Committee. In the absence of the President, the Vice-President shall preside over a meeting. In the absence of both the President and the Vice-President, the members present in the meeting shall elect one of such members to preside over that meeting.(6)The quorum for a meeting of the Ad-hoc Committee shall be four :Provided that no quorum shall be necessary for an adjourned meeting.(7)The Ad-hoc Committee shall exercise all powers and perform all duties of the Council.(8)The Ad-hoc Committee shall be deemed to be the Council also for the purposes of section 40 and section 46 of this Act.(9)Within a period of six months of such appointment of the Ad-hoc

Committee, the members of the Council to be elected under clause (f) of sub-section (1) of section 5 in accordance with the provisions of this Act and the rules made thereunder shall be elected, and the members to be nominated under clauses (b), (c) and (e) of the said sub-section shall be nominated within the same period and the members so elected and nominated shall be deemed to have been duly elected and nominated.(10)The State Government may, if it considers necessary so to do, by order extend the period of six months referred to in sub-section (9) [for a further period of (five years)] [Words substituted here by W.B. Act 38 of 1978, W.B. Act 1 of 1980, W.B. 37 of 1980. W.B. Act 6 of 1989, W.B. Act 3 of 1990, respectively. Finally the words 'five years' substituted for the words 'four years' by W.B. Act 6 of 1998 w.e.f. 11.6.1998.] not exceeding three months at a time.(11)Upon the reconstitution of the Council in the manner provided, the Ad-hoc Committee shall cease to exist and the Council shall function in accordance with the provisions of this Act.] [[Sub-Section (1) substituted by W.B. Act 6 of 1989 w.e.f. 14.12.1988. Original sub-section (1) was as under:-'(1) The Council shall consist of the following members, namely:-(a)a President nominated by the State Government :Provided that on the expiry of the first two terms of office of the President as specified in sub-section (1) of section 13, the State Government shall nominate a President from among three persons recommended by the Council in such manner as may be prescribed;(b)seven members nominated by the State Government of whom three shall be registered Homoeopathic practitioners;(c)one member nominated by the Vice-Chancellor of the University of Calcutta:(d)the Head of the Homoeopathic Research Institute, ex-officio, when such an Institute is established :Provided that until the Institute is established any other person may be nominated by the State Government:(e)the Principal of a Homoeopathic College, affiliated to the Council, nominated by the State Government:(f)eight members, who are citizens of India, elected, from such constituencies and in such manner as may be prescribed, by the registered Homoeopathic practitioners from among themselves of whom at least four must be practitioners whose names are entered in Part A of the Register.'.]

16. Meetings.

(1)The Council shall hold its meetings at such intervals and at such places as may be provided for by regulations.(2)No business shall be transacted at any meeting of the Council unless a quorum of seven members be present.(3)Save as provided in clause (b) of sub-section (2) of section 24, all questions arising at any meeting shall be decided by votes of the majority of the members present and voting and in case of an equality of votes by the casting vote of the President or, in his absence, of the member presiding at the meeting.

17. Expenses to be paid to members and other persons.

- The Council shall pay to its President, Vice-President and members and other persons appointed by it to any Committee referred to in sub-section (6) of section 15, such fees for attending at meetings of the Council, of the Executive Committee or of such Committee and such travelling expenses for journeys undertaken in the performance of duties as may be prescribed.

18. Powers of the Council.

- The Council shall have the following powers, namely:-(1)[with the prior approval of the State Government to establish institutions teaching the Homoeopathic system of medicine including DHMS course or any other diploma course recognised by the Central Council or by the State Government and to grant or refuse affiliation to such institution or to withdraw, after giving the institution an opportunity to show cause against the action proposed to be taken, such affiliation or to grant permission to conduct class in any course, recognised by the State Government :Provided that from such academic session as the State Government may, by notification in the Official Gazette, appoint, no institution or college teaching the Homoeopathic system of medicine shall admit students who have not passed the Intermediate Examination in Science or equivalent examination with Physics, Chemistry and Biology as their subjects, in any diploma course;] [[Clause (1) substituted by W.B. Act 27 of 1985. Original Clause (1) was as under:-'(1) with the approval of the State Government, to establish institutions teaching the Homoeopathic system of medicine and to grant or refuse affiliation to such institutions or to withdraw, after giving the authority of an institution an opportunity to show cause against the action proposed to be taken, such affiliation:'.]](2)to call on the authority of an institution affiliated to the Council, or of an institution applying for affiliation, to furnish within such period as may be specified, such reports, returns or other information as the Council may require to judge the efficiency of the institution;(3)to hold examinations for persons who shall have pursued a course of study [recognised by the Central Council or the State Government] [Words inserted by W.B. Act 27 of 1985.] in institutions affiliated to the Council, and to confer degrees, diplomas and certificates on them on having passed the necessary examinations;[* * * * *] [[Clause (4) omitted by W. B. Act 27 of 1985. The Clause was as under:-'(4) to provide by regulations courses of study for different examinations held by the Council;'.]](5)to provide for instruction or for refresher courses in such branches of medical science [as are recognised by the Central Council or the State Government] [Words substituted for the words 'as would be useful to persons studying the Homoeopathic system of medicine' by W.B. Act 27 of 1985.];(6)to appoint examiners and to fix their remuneration and to publish the results of the examinations held by it;(7)to grant scholarships, prizes and medals to students of institutions affiliated to the Council who are meritorious, or stipends to students who are poor and deserving; and with the sanction of the State Government, to grant to students scholarships for research or special study in any institution that the Council may think fit, whether in India or abroad and to endow chairs of Homoeopathic system of medicine in institutions affiliated to the Council;[* * * * *] [[Clause (8) omitted by W.B. Act 27 of 1985. The Clause was as under:-'(8) to confer honorary degrees on Homoeopathic practitioners of extraordinary merit;'.]](9)to collect prescribed fees or charges for admission to the examinations held by the Council and for [certificates or diplomas] [Words substituted for the words 'certificates, diplomas or degrees' by W.B. Act 27 of 1985.] granted or conferred by it;(10)to exercise general supervision over the residential and disciplinary arrangements made by the institutions affiliated to the Council and arrangements for promoting the health and general welfare of the students of such institutions;(11)to recommend to the State Government the sanction of a grant to an affiliated institution teaching the Homoeopathic system of medicine or the withdrawal or suspension, after giving the institution concerned an opportunity of showing cause against the action proposed, of any such grant;(12)to appoint such number of inspectors for the inspection of institutions teaching Homoeopathic system of medicine as the

Council may deem fit on such terms as the Council may, with the previous sanction of the State Government, determine;(13)to receive grants, donations, gifts and endowments;(14)to incur such expenditure, to adopt such measures and to do such acts as may be necessary for the furtherance of the objects mentioned in this section;(15)to advise the State Government in the matter of research in Homoeopathic system of medicine;(16)to perform such other functions as the State Government may direct or, on the recommendation of the Council, approve for carrying out the provisions of this Act.

19. Registrar and staff.

(1)The Council shall, with the previous approval of the State Government, appoint a Registrar. The Registrar shall receive such salary and allowances as may be prescribed. The Council may from time to time grant him leave and may appoint a person to act in his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all purposes of this Act.(2)The Council may, by order, suspend, punish, remove or dismiss the Registrar from office:Provided that any such order of the Council shall be subject to appeal to the State Government.(3)The Council may appoint such other officers and servants as it deems necessary:Provided that the number and designation of such officers and servants and their salaries and allowances shall be subject to the previous approval of the State Government.(4)The Registrar shall act as the Secretary to the Council and the Executive Committee.(5)The Registrar and all officers and servants appointed by the Council shall work under the direct control and supervision of the President or, in his absence, of the Vice-President.

20. Registration of Homoeopathic practitioners.

(1)The Council shall maintain a Register of Homoeopathic practitioners in two Parts, A and B, in such form as may be prescribed.(2)The Registrar shall from time to time make necessary entries in the Register in respect of the persons whose names are to be registered, their qualifications and their addresses and may also from time to time make such alterations or modifications as may be required in consequence of any orders passed by the Council or otherwise.(3)[The Council shall inform the Central Council without delay of all additions to, and all other amendments in, the Register from time to time.] [Sub-Section (3) inserted by W.B. Act 27 of 1985.]

21. Persons entitled to be registered.

(1)Every person who possesses any qualification mentioned in paragraphs 1, 2 or 3 of the Schedule shall, subject to the provisions of this Act, and on payment of such fee, as may be prescribed, be entitled to have his name entered in Part A of the Register.(2)[omitted] [[Sub-Section (2) and the proviso thereof omitted by W.B. Act 27 of 1985. The sub-section with the proviso was as under:-(2) Every person who possesses any qualification mentioned in paragraph 4 or 5 of the Schedule shall, subject to the provisions of this Act, and on payment of such fee as may be prescribed, be entitled to have his name entered in Part B of the Register :Provided that a person who possesses a qualification mentioned in paragraph 4 of the Schedule shall have passed an examination to be held by the Council in the manner provided by regulation upon an application for registration of his name to be made on or before the 31st day of December, 1970.']](3)Notwithstanding anything

contained in sub-sections (1) and (2), every person, whose name has been registered by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, shall be deemed to have been registered under the provisions of this Act and his name shall be entered in the Register. If such person possesses any qualification mentioned in paragraphs 1, 2 or 3 of the Schedule his name shall be entered in Part A of the Register [* * * *] [Words 'in any other case, his name shall be entered in Part B of the Register' omitted by W.B. Act 27 of 1985.] :[Provided that the rights and privileges of the Homoeopathic practitioners, whose names had been registered in Part B of the Register before the coming into force of the West Bengal Homoeopathic System of Medicine (Amendment) Act, 1985 shall not be affected.] [Proviso inserted by W.B. Act 27 of 1985.]

22. Power to amend the Schedule.

- The State Government may, by order published in the Official Gazette, add to, amend, or alter the Schedule.

23. Information required of applicant for registration.

(1)Every person who desires to have his name entered in the Register shall submit to the Registrar an application in the prescribed form stating:- (a) particulars of his qualifications, (b) the period for which he has been in practice, and (c) his address which is to be his registered address. (2) Every application shall be accompanied by the prescribed fee and such proof as may be available or necessary in support of the qualifications stated in the application.

24. Power of the Council to refuse registration or to remove name from Register in certain cases.

(1)The Council may, on being satisfied that a person is qualified for registration under section 21 and has paid the prescribed fee, direct that his name be entered in Part A or Part B of the Register, as the case may be, and the Registrar shall thereupon make necessary entries in the Register and grant him a certificate of registration. (2)The Council may refuse to permit the registration, or direct the removal from the Register, the name of any person - (a) who has been convicted of any offence involving moral turpitude; or (b) who has been found guilty of infamous conduct in his professional capacity by a majority of at least two-thirds of the members of the Council after a due enquiry into his conduct at which he has had an opportunity of being heard in person or of being duly represented. (3) Any refusal or removal under sub-section (2) may be rescinded if the conduct on the basis of which refusal or removal was directed is condoned for good and sufficient reasons.

25. [Retention. [Section 25 substituted by W.B. Act 20 of 1980. Original Section 25 was as under:-

'25. Renewal. - (1) Every person whose name is entered in the Register shall, for the retention of his name in the Register, pay to the Council quinquennially such renewal fee and at such time as may be prescribed. (2) Where the renewal fee is not paid by the due date, the Registrar shall remove the

name of the defaulter from the Register: Provided that a name so removed may be restored to the Register on such conditions as may be prescribed. (3) On payment of the renewal fee, the Registrar shall, in the prescribed manner, endorse the certificate of registration.'](1) Every person whose name has been entered in the Register before the commencement of the West Bengal Homoeopathic System of Medicine (Second Amendment) Act, 1980 shall, for the retention of his name in the Register, pay to the Council such retention fee and within such period as may be prescribed. (2) Where the retention fee is not paid within the prescribed period, the Registrar shall remove the name of the defaulter from the Register: Provided that a name so removed may be restored to the Register on such conditions as may be prescribed. (3) On payment of the retention fee, the Registrar shall, in the prescribed manner, endorse the certificate of registration.]

26. Transfer of name for Part B to Part A of the Register.

(1) If any person whose name is entered in Part B of the Register obtains any qualification mentioned in paragraphs 1, 2 or 3 of the Schedule he shall be entitled, on payment of such fee as may be prescribed, to have his name transferred from Part B to Part A of the Register. (2) If any person whose name is entered in Part B of the Register has been a teacher in a Homoeopathic institution affiliated to the Council or a visiting physician in a hospital attached to such an institution from a date prior to the first day of January, 1961, or is, in the opinion of the Council, a Homoeopathic practitioner of special merit or eminence, the Council may, with the approval of the State Government transfer, his name from Part B to Part A of the Register.

27. Entry of additional qualification.

- If any person whose name is entered in the Register obtains any qualification mentioned in the Schedule other than the qualification in respect of which he has been registered, he shall, on payment of such fee as may be prescribed, be entitled to have such qualification entered against his name in the Register either in substitution for or in addition to any entry previously made and the Registrar shall add to or amend the entry accordingly.

28. Appeal to the Council from decision of the Registrar.

- If any person is dissatisfied with any decision of the Registrar refusing to enter his qualification under section 27 in the Register, he may, at any time within three months from the date of such decision, appeal to the Council in the prescribed manner and the decision of the Council shall be final.

29. Cancellation of fraudulent and incorrect entries.

- Any entry in the Register, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made may be cancelled under an order in writing of the Council.

30. Appeal to State Government from decision of the Council.

- An appeal shall lie to the State Government against any decision or order of the Council refusing to enter a person's name in Part A or Part B of the Register or to transfer his name from Part B to Part A of the Register or removing his name from the Register, if filed within three months of the date of decision or order and the decision of the State Government shall be final.

31. Notice of death and removal of name from Register.

- The Council may, on receipt of reliable information regarding the death of a person whose name is entered in the Register, and on making such enquiry as it may think fit, direct the removal of his name from the Register and thereupon the Registrar shall cancel the entry relating to such person.

32. Penalty on unregistered person representing that he is registered.

- If any person whose name is not entered in the Register falsely pretends that it is so entered or uses in connection with his name, any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable on conviction by [a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, with imprisonment which may extend to one year or with fine which may extend to two thousand rupees] [Words substituted for the words 'a Presidency Magistrate or a Magistrate of the First Class, with imprisonment which may extend to six months or with fine which may extend to five hundred rupees' 'by W.B. Act 27 of 1985.].

33. Penalty for failure to surrender certificate of registration.

(1) If any person whose name has been removed from the Register under sub-section (2) of section 24 or sub-section (2) of section 25, fails, without sufficient cause, forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to [five hundred rupees] [Words substituted for the words 'fifty rupees' by W.B. Act 27 of 1985.]. (2) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Council.

34. Prohibition of unauthorised conferment of degrees, etc., and penalty for such conferment.

(1) No person, association or institution other than the Council [or any University or any other statutory institution duly recognised by the State Government for the purpose] [Words inserted by W.B. Act 27 of 1985.] shall confer, grant or issue, or hold himself or itself out as entitled to confer, grant or issue, any degree, diploma, licence, certificate or any other document stating or implying that the holder, grantee or recipient thereof is qualified to practise the Homoeopathic system of medicine. (2) Any contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to [two years] [Words substituted for the words 'one thousand

rupees' by W.B. Act 27 of 1985.] or with fine which may extend to [two thousand rupees] [Words substituted for the words 'one thousand rupees' by W.B. Act 27 of 1985.] or with both; and if an association or institution is guilty of such contravention, every member thereof who knowingly or wilfully authorises or permits the contravention, shall be punishable with imprisonment which may extend to [two years] [Words substituted for the words 'one thousand rupees' by W.B. Act 27 of 1985.] or with fine which may extend to [two thousand rupees] [Words substituted for the words 'one thousand rupees' by W.B. Act 27 of 1985.] or with both.

35. Penalty for improper assumption of Homoeopathic qualifications.

(1) No person shall use any letters or figures after his name indicating or implying that he possesses any degree, diploma, licence, or certificate as a Homoeopathic practitioner unless such degree, diploma, licence or certificate has been conferred by the Council [or by any University or body established by the State Government under any law] [Words inserted by W.B. Act 27 of 1985.], or is recognised [by the council] [Words substituted for the words 'by it' by W.B. Act 27 of 1985.] with the approval of the State Government. (2) [Whoever contravenes the provisions of sub-section (1) shall be punishable, on the first conviction, with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both and on subsequent conviction with imprisonment which may extend to two years or with fine which may extend to two thousand rupees or with both.] [[Sub-Section (2) substituted by W.B. Act 27 of 1985. Original sub-section (2) was as under:-(2) Whoever contravenes the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to two hundred rupees, and on any subsequent conviction with fine which may extend to five hundred rupees.'.]]

35A. [Prohibition of use of certain names and penalty for such use. [Section 35A inserted by W.B. Act 27 of 1985.]

(1) No person, association or institution other than an institution established by, or affiliated to, the Council shall use for any educational institution any name which resembles the name of an institution established by, or affiliated to, the Council or which contains the expression "Homoeopathic College" or "Homoeopathic Institution" or any abbreviation or variation of such expression in any language whatsoever. (2) Any contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both; and if an association or institution is guilty of such contravention, every member thereof who knowingly or wilfully authorises or permits the contravention, shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.]

36. Publication and use of registration list.

(1) The Registrar shall, from time to time as occasion may require, on or before the date to be fixed in this behalf by the Council, cause to be printed and published (provided that at least twelve months shall have elapsed from the date of the last publication) a correct list of the names for the time being

entered in the Register under each of the two Parts, A and B, setting forth therein -(a)names of all registered Homoeopathic practitioners arranged in alphabetical order according to surname;(b)the registered address of each such person; and(c)the registered qualifications of each such person and the date on which each qualification was obtained.(2)The Registrar shall, from time to time as occasion arises, cause to be printed and published a list supplementary thereto, containing additions and alterations in the Register since the publication of the list under sub-section (1) [and shall forward a copy thereof to the State Government and to the Central Council], [Words inserted by W.B. Act 27 of 1985.](3)Every court shall presume that any person whose name is entered in the latest list printed and published under sub-section (1) read with the latest list supplementary thereto, if any, printed and published under sub-section (2) is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act:Provided that, in the case of any person whose name does not appear in the latest list printed and published under sub-section (1) read with the latest list supplementary thereto, if any, printed and published under sub-section (2), a certified copy, signed by the Registrar, of the entry of the name of such person in the Register, shall be evidence that such person is registered under this Act.

36A. [Registration of registered Homoeopathic practitioners for election to the Council. [Section 36A inserted by W.B. Act 6 of 1989, w.e.f. 14.12.1988.]

(1)Every of registered Homoeopathic practitioner shall, for the purpose of election of members to the Council under clause (h) of sub-section (1) of section 5, register himself as a voter in the manner prescribed.(2)The Council shall cause to be printed and published a list of all such voters in such manner as may be prescribed.(3)The list as aforesaid shall be revised from time to time in such manner as may be prescribed.(4)The list printed and published under sub-section (2) or revised from time to time under sub-section (3) shall be the valid list of voters for the purpose of election of members to the Council under clause (h) of sub-section (1) of section 5.]

37. Certain privileges of registered Homoeopathic practitioners.

- A registered Homoeopathic practitioner shall be entitled -(a)to grant a death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner or medical officer;(b)to grant a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner or medical officer;(c)to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872.

38. Homoeopathic practitioners other than those registered under Part A of the Register not eligible for certain appointments.

- Except with the special sanction of the State Government, no Homoeopathic practitioner other than a registered Homoeopathic practitioner whose name is entered in Part A of the Register shall be competent to hold any appointment as a physician, medical officer or teacher, in any Homoeopathic hospital, asylum, infirmary, dispensary, or lying-in-hospital, which is supported wholly or partially by grants made by the State Government, the Council, or a local authority, or in

any Homoeopathic educational institution which is so supported or which is affiliated under clause (1) of section 18: Provided that a registered Homoeopathic practitioner whose name is entered in Part B of the Register shall be competent to hold any such appointment if he has held any such appointment from a date prior to the first day of January, 1961.

39. Control of manufacture, storage and sale of Homoeopathic drugs.

- Subject to the provisions of any law for the time being in force relating to drugs and poisons, the State Government shall have the power to regulate and control the manufacture, storage or sale of Homoeopathic drugs and medicines by the grant of licences, to manufacturers, stockists and sellers, on such conditions and on payment of such fees as may be prescribed.

40. Bar of suit or other legal proceedings.

- No suit, prosecution or other legal proceedings shall lie in respect of any act or thing done or omitted to be done in the exercise or purported exercise of any power conferred by or under this Act on the State Government or the Council or the Executive Committee or any Committee appointed by the Council or on the Registrar.

41. Validation.

- No act or thing done by the Council, the Executive Committee or a Committee appointed by the Council shall be invalid merely on the ground of any vacancy in or defect in its composition.

42. Finance, Audit and Budget.

(1) All fees payable and prescribed under this Act shall be paid to the Council. (2) An account of all assets and liabilities of the Council and of all fees, sums, grants, donations, gifts and endowments received by it and of all expenses and disbursements incurred or made by it shall be maintained in the prescribed manner. (3) The account shall be audited annually in such manner and by such officer or authority as may be prescribed. A copy of the audit report shall be submitted to the State Government by the Council. (4) The Council shall prepare in the prescribed manner a budget for any financial years showing the probable receipt and expenditure, which shall be submitted to the State Government for approval. (5) [The State Government may, in case of contravention by the Council of any of the provisions of sub-sections (3) and (4), take such action against the Council as the State Government may decide.] [Sub-Section (5) inserted by W.B. Act 27 of 1985.]

43. Rules.

(1) The State Government may from time to time make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(i) the election of members of the Council, members of the Executive Committee and the Vice-President; (ii) the functions to be performed by

the President and the Vice-President;(iii)the fees payable under this Act;(iv)the expenses to be paid under section 17;(v)the salary and allowances to be paid to the Registrar;(vi)the conditions for the grant of licences under section 39;(vii)the manner in which the account referred to in sub-section (2) of section 42 shall be maintained;(viii)the procedure to be followed by the Council in - (a)conducting an enquiry under clause (b) of sub-section (2) of section 24,(b)disposing of appeals from the decision of the Registrar preferred under section 28;(ix)any other matter which may be or is required to be prescribed under this Act.

44. Regulations.

(1)The Council may, with the previous approval of the State Government, make regulations, not inconsistent with this Act or the rules made thereunder, for discharging its functions under this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-(i)the conduct of business of the Executive Committee and of Committees appointed by the Council;(ii)the time and place at which each meeting shall be held;(iii)the issue of notices convening such meeting;(iv)the conduct of business thereat;(v)the conditions of appointment and service and the scales of pay and allowances of all the officers and servants appointed by the Council;(vi)any matter for which power to make regulations is conferred expressly or by implication on the Council by this Act.

45. Publication of rules and regulations.

- All rules and regulations shall be published in the Official Gazette.

46. Control over the Council by State Government.

- If, at any time, it appears to the State Government that the Council has failed to exercise or has exceeded or abused a power conferred upon it by or under this Act or has failed to perform a duty imposed upon it by this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, after giving the Council an opportunity of being heard, notify the particulars thereof to the Council and if the Council fails to remedy such failure, excess or abuse within such time as may be fixed by the State Government in this behalf, the State Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such agency and for such period as it may think fit. The ScheduleQualifications enabling a person to have his name entered in the Register of Homoeopathic practitioners.(See section 21.)

1. Any degree or diploma or certificate conferred or granted on passing the final examination held by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, [the Council, any University or by any statutory institution recognised by the State Government] [Words substituted for the words 'or by the Council' by W.B. Act 27 of 1985].

2. Any other [* * *] [Words 'degree or' omitted by W.B. Act 27 of 1985.] diploma or certificate conferred or granted by the Council which is declared by the Council with the approval of the State Government to be a sufficient qualification for registration as a Homoeopathic practitioner.

3. Any degree or diploma or certificate conferred or granted by any [University] [Word inserted by W.B. Act 27 of 1985.] institution or authority within or outside the State :

Provided that such degree or diploma or certificate has been recognised by the General Council and State Faculty of Homoeopathic Medicine, West Bengal, or is recognised by the Council, with the approval of the State Government [or by the Central Council] [Words inserted by W.B. Act 27 of 1985.] as a sufficient qualification for registration as a Homoeopathic practitioner.

4. [* * * * *]

5. * * * * *] [[Paragraphs 4 and 5 omitted by W.B. Act 27 of 1985. which were as under:-

'4. Regular practice of the Homoeopathic system of medicine for a period of not less than three years immediately before the date of commencement of this Act, subject to passing the examination mentioned in the proviso to sub-section (2) of section 21.

5. Any qualification other than a qualification mentioned in paragraphs 1, 2 or 3 by reason of which a person has been registered as a Homoeopathic practitioner by any Board or Council of Homoeopathic Medicine established by any other State Government within the Indian Union :

Provided that a scheme of reciprocity for purposes of registration has been adopted by the Council with the approval of the State Government.'])