

C030E

A

Bill to

Amend the Dentists Registration Ordinance, the Midwives Registration Ordinance, the Nurses Registration Ordinance, the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance, the Radiation Ordinance and the Chinese Medicine Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Medical and Health Care (Miscellaneous Amendments) Ordinance 2001.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Health and Welfare by notice published in the Gazette.

2. Amendment of Dentists Registration Ordinance---(Schedule 1)

The Dentists Registration Ordinance (Cap. 156) is amended as indicated in Schedule 1.

3. Amendment of Midwives Registration Ordinance and its subsidiary legislation--(Schedule 2)

The Midwives Registration Ordinance (Cap. 162) and its subsidiary legislation are amended as indicated in Schedule 2.

4. Amendment of Nurses Registration Ordinance and its subsidiary legislation---(Schedule 3)

The Nurses Registration Ordinance (Cap. 164) and its subsidiary legislation are amended as indicated in Schedule 3.

5. Amendment of Hospitals, Nursing Homes and Maternity Homes Registration Ordinance---(Schedule 4)

The Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) is amended as indicated in Schedule 4.

6. Amendment of Radiation Ordinance---(Schedule 5)

The Radiation Ordinance (Cap. 303) is amended as indicated in Schedule 5.

7. Amendment of Chinese Medicine Ordinance---(Schedule 6)

The Chinese Medicine Ordinance (Cap. 549) is amended as indicated in Schedule 6.

SCHEDULE 1 [s. 2]

Amendment of Dentists Registration Ordinance

Item Provision affected Amendment

1. Section 4 (a) In subsection (2)(d), repeal "8(1)(a), (b), (ba) or (c)" and

substitute "8".

(b) Repeal subsection (3) and substitute---

"(3) The term of a member of the Council appointed under subsection (2)(c), (d) or (e) is 3 years, or such lesser period as the Chief Executive may determine at the time of appointment, and the member is eligible for reappointment on the expiry of the term."

2. Section 4A (a) In subsection (3), repeal "consecutive".

(b) Repeal subsection (4).

3. Section 8 (a) Renumber it as section 8(1).

(b) Repeal subsection (1)(b) and substitute---

"(b) has been awarded a bachelor degree in dentistry by a university in Hong Kong specified in the Schedule; or".

(c) Add---

"(2) The Council may, with the prior approval of the Legislative Council, amend the Schedule by notice published in the Gazette."

4. New Add---

"SCHEDULE [s. 8]

Universities in Hong Kong Specified
for Purposes of Section 8 of this
Ordinance

1. The University of Hong Kong."

SCHEDULE 2 [s. 3]

Amendment of Midwives Registration Ordinance and
Its Subsidiary Legislation

Item Provision affected Amendment

Midwives Registration Ordinance

1. Section 9 Repeal subsection (2).

2. Section 14 (a) Repeal subsection (3) and substitute---

"(3) A midwife whose name is removed from the register in accordance with the provisions of this Ordinance may apply to the Council for restoration of the name to the register."

(b) Add---

"(4) An application under subsection (3) shall be accompanied by a prescribed fee.

(5) After such inquiry and subject to such conditions as the Council may consider expedient, the Council may either allow or refuse an application under subsection (3), and if it allows the application, it shall direct the secretary to restore the name of the relevant midwife to the register."

3. Section 18(2)(b)(i) Repeal "instruction" and substitute "training".

4. New Add before section 22A---

"22AA. Replacement copies of certificates of registration or of practising certificates

(1) The holder of a current certificate of registration or practising certificate issued under section 9 or 22 respectively may apply to the secretary for a replacement copy of the certificate of registration or of the practising certificate (as the case may be) if the original certificate of registration or practising certificate (as the case may be) is lost, destroyed or defaced.

(2) Subject to subsection (3), the secretary shall issue to the applicant a replacement copy of the certificate on receipt of an application accompanied by a prescribed fee.

(3) The secretary shall not issue a replacement copy of the certificate unless the applicant proves to the satisfaction of the secretary that the original certificate is lost, destroyed or defaced."

5. Section 23 (a) Add---

"(1A) Regulations made under subsection (1)(a) may prescribe different fees for cases of different classes or description."

(b) In subsection (3)(c), repeal "re-registration" and substitute "restoration of the name of a person to the register".

Midwives Registration (Fees) Regulation

6. Schedule (a) In item 1(b), repeal "re-registration" and substitute "application for restoration of the name of a person to the register".

(b) In item 2, repeal everything in column 2 and substitute---

"Replacement copy of a certificate of registration or replacement copy of a practising certificate".

Midwives (Registration and Disciplinary Procedure) Regulation

7. Section 4 Repeal.

8. Section 7 Repeal and substitute---

"7. Forms of certificates

The certificate of registration to be issued to a person by the secretary on entering or restoring the person's name in or to the register shall be in the form prescribed in Schedule 2."

9. Schedule 2 Within the square brackets, repeal "ss. 4 &" and substitute "s."

Midwives Registration (Miscellaneous Provisions) Regulation

10. Section 4(b) Repeal "19(2)(b) or 20(2)" and substitute "18(2)(b) or 19(2)(a)".

SCHEDULE 3 [s. 4]

Amendment of Nurses Registration Ordinance
and Its Subsidiary Legislation

Item Provision affected Amendment

Nurses Registration Ordinance

1. Part II In the heading, repeal "理管".
2. Section 3(1) Repeal "理管".
3. New Add---

"3A. Questioning of election by
election petition

The result of an election of members to the Council under section 3(2)(ca) may only be questioned by an election petition heard and determined by the Council."

4. Section 4 (a) In subsections (1)(b) and (2), repeal "5" and substitute "7".
(b) In subsection (4), repeal everything after "voting" and substitute "on the question."

(c) Add---

"(4A) Nothing in subsection (4) shall be construed to prevent any question for determination by the Council being so decided by a majority opinion of the members on circulation to the members of papers relating to the question."

5. New After section 4, add---

"4AA. Transaction of business by
circulation of papers

(1) The Council may transact its business by circulation of a paper to all members without a meeting.

(2) Subject to subsection (4), a written resolution that is approved by a majority of the members is as valid and effectual as if it had been passed at a meeting of the Council by the votes of the members so approving.

(3) A member may, by giving a notice in writing to the Chairman within such period as may be specified in the paper being circulated, request the Chairman to refer any item of business in the paper to the next meeting of the Council for determination.

(4) Any approval under subsection (2) in respect of an item of business specified in the notice is void."

6. New Add---

"8A. Review of results of examinations
under section 8

(1) A person who is aggrieved by the result of an examination under section 8 may request the Council to review the result.

(2) A request for review under subsection (1)---

(a) shall be in writing;

(b) shall state the grounds relied on; and

(c) shall be made within 1 week

after the announcement of the examination result by the Council.

(3) On receipt of a request accompanied by a prescribed fee, the Council shall review the relevant examination result as soon as practicable.

(4) The Council shall notify the person who has requested the review of the result of the review within 1 month after the completion of the review by a written notice served on the person personally or sent to the person by registered post."

7. Section 10 Repeal subsection (2).

8. New Add---

"10AA. Replacement copies of certificates of registration or of practising certificates for registered nurses

(1) The holder of a current certificate of registration or practising certificate issued under section 10 or 10A respectively may apply to the secretary for a replacement copy of the certificate of registration or of the practising certificate (as the case may be) if the original certificate of registration or practising certificate (as the case may be) is lost, destroyed or defaced.

(2) Subject to subsection (3), the secretary shall issue to the applicant a replacement copy of the certificate on receipt of an application accompanied by a prescribed fee.

(3) The secretary shall not issue a replacement copy of the certificate unless the applicant proves to the satisfaction of the secretary that the original certificate is lost, destroyed or defaced."

9. New Add---

"14A. Review of results of examinations under section 14

(1) A person who is aggrieved by the result of an examination under section 14 may request the Council to review the result.

(2) A request for review under subsection (1)---

(a) shall be in writing;

(b) shall state the grounds relied on; and

(c) shall be made within 1 week

after the announcement of the examination result by the Council.

(3) On receipt of a request accompanied by a prescribed fee, the Council shall review the relevant examination result as soon as practicable.

(4) The Council shall notify the person who has requested the review of the result of the review within 1 month after the completion of the review by a written notice served on the person personally or sent to the person by registered post."

10. Section 16 Repeal subsection (2).

11. New Add---

"16AA. Replacement copies of certificates of enrolment or of practising certificates for enrolled nurses

(1) The holder of a current certificate of enrolment or practising certificate issued under section 16 or 16A respectively may apply to the secretary for a replacement copy of the certificate of enrolment or of the practising certificate (as the case may be) if the original certificate of enrolment or practising certificate (as the case may be) is lost, destroyed or defaced.

(2) Subject to subsection (3), the secretary shall issue to the applicant a replacement copy of the certificate on receipt of an application accompanied by a prescribed fee.

(3) The secretary shall not issue a replacement copy of the certificate unless the applicant proves to the satisfaction of the secretary that the original certificate is lost, destroyed or defaced."

12. Section 27 (a) Repeal subsection (1) and substitute---

"(1) The Chief Executive in Council may by regulation prescribe the fees payable under this Ordinance, and different fees may be prescribed for cases of different classes or description."

(b) In subsection (3)---

(i) in paragraph (c), repeal ", re-registration and re-enrolment" and substitute "and restoration of the name of a person to the register or roll";

(ii) in paragraph (i), repeal "; and" and substitute---", including---

(i) the qualifications of candidates, electors and subscribers to a nomination paper;

(ii) the particulars of any system of voting and counting;

(iii) the determination of election results; and

(iv) other matters relating to the election;";

(iii) add---

"(ia) the procedure and other matters relating to an election petition under section 3A, including---

(i) the person who may present a petition;

(ii) the person who may be the respondent to a petition;

- (iii) the grounds for questioning the result of an election by a petition;
- (iv) the person who may regulate the procedure of a petition; and
- (v) the power to validate acts done pending the determination of the result of a petition; and".

Nurses (Registration and Disciplinary Procedure) Regulations

- 13. Regulation 6 Repeal "certified" and substitute "replacement".
 - 14. Second Schedule In item 2, repeal "certified" and substitute "replacement".
- Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations
- 15. Regulation 6 Repeal "certified" and substitute "replacement".
 - 16. Second Schedule In item 2, repeal "certified" and substitute "replacement".

SCHEDULE 4 [s. 5]

Amendment of Hospitals, Nursing Homes and

Maternity Homes Registration Ordinance

Item Provision affected Amendment

1. Section 2(1) Repeal the definition of "pupil midwife" and substitute---
""student midwife" (見習助産士) means a person who is a student midwife for the purposes of the Midwives (Registration and Disciplinary Procedure) Regulation (Cap. 162 sub. leg.);".

2. Section 3 (a) In subsection (3A), repeal "the fees in".
(b) In subsection (4), in the proviso, in paragraph (d), repeal "pupil" where it twice appears and substitute "student".

SCHEDULE 5 [s. 6]

Amendment of Radiation Ordinance

Item Provision affected Amendment

1. Section 3 (a) Repeal subsection (3) and substitute---
"(3) The term of a non-ex officio member is 3 years, or such lesser period as the Chief Executive may determine at the time of appointment, and the member is eligible for
reappointment on the expiry of the term."

(b) Add---

"(3A) A non-ex officio member may be removed by the Chief Executive at discretion.
(3B) A non-ex officio member may resign by giving a notice in writing to the Chairman of the Board."

(c) Add---

"(10) In this section, "non-ex officio member" (非當然成員) means a member of the Board who is appointed under subsection (2)(b)."

2. New Add---

"3A. Transaction of business by circulation of papers

(1) The Board may transact its business by circulation of a paper to all members without a meeting.

(2) Subject to subsection (4), a written resolution that is approved by a majority of the members is as valid and effectual as if it had been passed at a meeting of the Board by the votes of the members so approving.

(3) A member may, by giving a notice in writing to the Chairman of the Board within such period as may be specified in the paper being circulated, request the Chairman to refer any item of business in the paper to the next meeting of the Board for determination.

(4) Any approval under subsection (2) in respect of an item of business specified in the notice is void."

SCHEDULE 6 [s. 7]

Amendment of Chinese Medicine Ordinance

Item	Provision affected	Amendment
------	--------------------	-----------

- | | | |
|----|----------|--|
| 1. | 98(2)(b) | Repeal "has been found" and substitute "is". |
|----|----------|--|

Explanatory Memorandum

The purpose of this Bill is to make miscellaneous amendments to the following Ordinances relating to medical and health care---

- (a) the Dentists Registration Ordinance (Cap. 156);
- (b) the Midwives Registration Ordinance (Cap. 162) and its subsidiary legislation;
- (c) the Nurses Registration Ordinance (Cap. 164) and its subsidiary legislation;
- (d) the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165);
- (e) the Radiation Ordinance (Cap. 303); and
- (f) the Chinese Medicine Ordinance (Cap. 549).

2. The Bill contains the following provisions---

- (a) clause 1 specifies the short title of the proposed Ordinance and provides for the commencement of its provisions;
- (b) clauses 2 to 7 are formal provisions that give effect to the Schedules to the proposed Ordinance.

3. Schedule 1 amends the Dentists Registration Ordinance (Cap. 156) by---

- (a) providing that the term of a member of the Dental Council of Hong Kong (the "Dental Council") may be determined by the Chief Executive (item 1(b));
- (b) clarifying that the Dental Council may prohibit a person from sitting the Licensing Examination if the person has sat any one part of the examination 5 times

and has failed each time (item 2);

(c) stipulating that a person awarded a bachelor degree in dentistry by a university in Hong Kong specified in the new Schedule is qualified for registration as a dentist (item 3).

4. Schedule 2 amends the Midwives Registration Ordinance (Cap. 162) by---

(a) providing that a prescribed fee is payable for an application for the restoration of the name of a midwife to the register of midwife (item 2);

(b) providing that a midwife may apply for a replacement copy of a certificate of registration or of a practising certificate (item 4);

(c) providing that a regulation made under the Midwives Registration Ordinance (Cap. 162) may prescribe different fees for cases of different classes or description (item 5).

5. Schedule 3 amends the Nurses Registration Ordinance (Cap. 164) by---

(a) providing that the result of an election of members to the Nursing Council of Hong Kong (the "Nursing Council") may only be questioned by an election petition (item 3);

(b) providing that the Nursing Council may transact its business by circulation of a paper to all members without a meeting (item 5);

(c) providing that a person who is aggrieved by the result of an examination conducted under the Nurses Registration Ordinance (Cap. 164) may request to review the result (items 6 and 9);

(d) providing that a registered nurse or an enrolled nurse may apply for a replacement copy of a certificate of registration or of a certificate of enrolment or of a practising certificate (as the case may be) (items 8 and 11);

(e) providing that the Chief Executive in Council may by regulation prescribe different fees for cases of different classes or description (item 12(a));

(f) providing that the Nursing Council may make regulations relating to elections and election petitions (item 12(b)).

6. Schedule 4 amends the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) by---

(a) replacing the definition of "pupil midwife" with the definition of "student midwife" (item 1);

(b) enabling amendments to be made to the whole Schedule to the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) by a resolution of the Legislative Council (item 2(a)).

7. Schedule 5 amends the Radiation Ordinance (Cap. 303) by---

(a) providing that the term of a non-ex officio member of the Radiation Board may be determined by the Chief Executive, and the member may resign by giving a notice

in writing to the Chairman of the Radiation Board (item 1);

(b) providing that the Radiation Board may transact its business by circulation of a paper to all members without a meeting (item 2).

8. Schedule 6 amends the Chinese Medicine Ordinance (Cap. 549) by making it clear that the Chinese Medicine Practitioners Board may conduct an inquiry into a complaint against a Chinese medicine practitioner and discipline the Chinese medicine practitioner on the same occasion (item 1).