

23 MAR 2005

Bill No. XLII of 2005

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT)
BILL, 2005

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BILL

further to amend the Indian Medicine Central Council Act, 1970.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medicine Central Council (Amendment) Act,
2005.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

48 of 1970. 2. In the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the
principal Act), in section 2, in sub-section (1),—

Amendment
of section 2.

(i) after clause (f), the following clause shall be inserted, namely:—

10 (fa) "member" means a member of the Central Council and includes the
President and a Vice-President;'

(ii) after clause (g), the following clause shall be inserted, namely:—

'(ga) "President" means the President of the Central Council;'

(iii) after clause (k), the following clause shall be inserted, namely:—

'(l) "Vice-President" means a Vice-President of the Central Council and includes a Chairman of the committee.'

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Amendment
of section 3.

3. In section 3 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

"(d) six officials to be nominated by the Central Government as members *ex officio*, namely:—

(i) Adviser or Deputy Adviser from each of the Ayurveda, Siddha and Unani systems of medicine in the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy;

(ii) Director, National Institute of Ayurveda, Jaipur;

(iii) Director, National Institute of Unani, Bangalore; and

(iv) Director, National Institute of Siddha, Chennai."

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Insertion of
new section
3A.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

"3A. (1) The Central Government shall, as soon as possible, after the commencement of the Indian Medicine Central Council (Amendment) Act, 2005, reconstitute the Central Council, and by notification in the Official Gazette, publish the names of the members nominated or elected under sub-section (1) of section 3.

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(2) On and from the date of commencement of the Indian Medicine Central Council (Amendment) Act, 2005, the existing Central Council shall stand dissolved and all the members of the Central Council shall vacate their office.

(3) Till the new Central Council is reconstituted, the Central Government shall appoint a Board of Administrators as provided in sub-section (1A) of section 7 of the Act."

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Amendment
of section 7.

5. In section 7 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The President, a Vice-President or a member of the Central Council shall hold office for a term of five years from the date of his election or, as the case may be, nomination and no longer.

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Provided that the Central Government shall take or cause to be taken necessary steps for the reconstitution of a new Central Council at least three months before the expiry of the term of the Central Council.

(1A) If the Central Government is unable to reconstitute the Central Council within the specified time, it shall appoint a Board of Administrators consisting of not more than five members headed by a Chief Administrator, who are otherwise eligible to hold the office of the members of the Central Council, which shall exercise the powers and perform the functions of the Central Council till the new Central Council is reconstituted in the manner provided under this Act or the expiry of six months, whichever is earlier."

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(b) in sub-section (4), the following proviso shall be inserted, namely:—

"Provided that no member shall hold office for more than two terms."

6. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 33A, 33B, 33C, 33D and 33E.

5 "33A. (1) The Central Council may recommend to the Central Government for removal of the President, a Vice-President or any member on the grounds of misconduct or incapacity by a resolution passed by a majority of the total membership of the Central Council excluding the vacancies and a two-thirds majority of the members present and voting after having given a reasonable opportunity of being heard, and the Central Government may, after being satisfied of the grounds on which such removal is recommended, remove the President, the Vice-President or the member from
10 the Central Council, by notification in the Official Gazette.

Removal of President, Vice-President or member of Central Council.

(2) When the President is removed by an order under sub-section (1), during the period of such removal, the powers and duties conferred and imposed on the President under this Act shall be exercised and performed by a Vice-President as the Central Government may appoint in that behalf.

15 (3) Where a Vice-President is removed by an order under sub-section (1), during the period of such removal, the powers and duties conferred and imposed on the Vice-President under this Act shall be exercised and performed by such person who is otherwise eligible to become the member of the Central Council as the Central Government may appoint in that behalf.

20 (4) The President or the Vice-President or the member, as the case may be, shall be elected in the manner provided under this Act within the period of three months from the date on which the order of removal was issued under sub-section (1).

25 33B. Notwithstanding anything contained in section 7, if the Central Government considers it to be expedient in the public interest that a member nominated to the Central Council under clause (c) of sub-section (1) of section 3 should withdraw from the Central Council, the Central Government may give such direction and if the member refuses to comply with the direction so given, it may, by order, remove such member from the Central Council.

Withdrawal and removal of nominated members of Central Council.

30 33C. (1) In the discharge of its functions under this Act, the Central Council shall be guided by such directions, as may be given to it in the public interest, by the Central Government.

Directions by Central Government.

(2) If any dispute arises between the Central Government and the Central Council as to whether a question relates to public interest or not, the decision of the Central Government thereon shall be final.

35 33D. (1) If the Central Government is of the opinion that any committee of the Central Council is unable to perform or has made persistently defaults—

Power of Central Government to dissolve any committee.

(a) in the performance of, the duties imposed on it by or under this Act or has exceeded or abused its powers; or

40 (b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 33C or by the Central Council under sub-section (3) of section 9,

the Central Government may, by a notification published, together with a statement of the reasons therefor, in the Official Gazette dissolve such committee:

45 Provided that before issue of such notification, the Central Government shall give a reasonable time to the committee to show cause why it should not be dissolved and shall consider the explanations and objections, if any, of the committee.

(2) Upon the publication of a notification under sub-section (1) dissolving the committee,—

(a) all the members of the committee shall, notwithstanding that their term of office had not expired, as from the date of dissolution, vacate their offices as such members;

(b) all powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the committee, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may think fit from amongst the members of the Central Council;

Provided that the term of office of the person or persons so appointed under this sub-section shall not exceed a period of six months or till the time a new committee is constituted, whichever is earlier.

Power of
Central
Government
to remove
Chairman or
member of
any
committee.

33E. (1) If the Central Government is of the opinion that the Chairman or the member of any committee of the Central Council is unable to perform or has made persistently defaults—

(a) in the performance of, the duties imposed on him under this Act or has exceeded or abused his powers; or

(b) either wilfully or without sufficient cause in complying with any direction issued by Central Government under section 33C or by the Central Council under sub-section (3) of section 9,

the Central Government may remove from office the Chairman or the member, as the case may be:

Provided that before issue of such removal, the Central Government shall give a reasonable opportunity of being heard to the Chairman or the member, as the case may be, to show cause why he should not be removed from office and shall consider the explanations and objections, if any, of the Chairman or the member.

(2) Upon the removal from office under sub-section (1),—

(a) the chairman or the member shall, notwithstanding that his term of office had not expired, as from the date of removal from office, vacate the offices as such Chairman or the member;

(b) all powers and duties which may, under the provisions of this Act, be exercised or performed by the Chairman shall, during the period of removal from office, be exercised and performed by such person as the Central Government may think fit from amongst the members of the Central Council;

Provided that the term of office of the person so appointed under this sub-section shall not exceed a period of six months or till the time a new Chairman or the member, as the case may be, is elected in the manner provided under this Act, whichever is earlier."

Amendment
of section 35.

7. In section 35 of the principal Act,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted.

Amendment
of section 36.

8. In section 36 of the principal Act,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted.

9. After section 36 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 37 and 38.

5 "37. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Central Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

Power of Central Government to issue directions for making or amending regulations.

(2) If the Central Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Central Council.

10 38. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any
15 modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

Laying of rules and regulations.

STATEMENT OF OBJECTS AND REASONS

The Indian Medicine Central Council Act, 1970 (48 of 1970) (IMCC Act) provides for constitution of the Central Council of Indian Medicine for regulation of a education and maintenance of a Central Register of practitioners of Ayurveda, Siddha and Unani systems of medicines and for matters connected therewith.

2. The Central Council of Indian Medicine was initially constituted through nomination of members in 1971. Subsequently, elections to the said Council were conducted. Though the tenure of all the members of the said Council elected in 1994-95 had expired in 2000, it could not be reconstituted even after a lapse of more than four years because the election process has been completed only in 7 States out of 18 States that maintain the State Register of Indian Medicine. This is due to not updating the State Register of Indian Medicine, at the instance of sitting members, a pre-requisite for conducting elections in time. Sometimes the elections are delayed due to litigation and stay orders from court.

3. The election for the Central Council of Indian Medicine from State of Bihar could not be conducted during 1994-95 and the members elected in 1983-84 are still continuing in the Central Council of Indian Medicine. It has been observed that such a problem persists due to the existing provisions in section 7(1) of the Indian Medicine Central Council Act, 1970, which provide for a term of five years from the date of election or nominations, as the case may be, or until the election or nomination of the successor, whichever is longer.

4. Further, in the IMCC Act, 1970, there is no provision for removal of the President, Vice-President of the Council and also withdrawal of the member nominated to the Council in case they commit some irregularity or unwanted activities. The Department is of the opinion that the tenure of the members should not exceed five years and also there should also be a provision for the removal of the President, Vice-President or the members.

5. In order to meet the requirements, it is proposed to amend the Indian Medicine Central Council Act, 1970 so as to make provisions—

- (a) to nominate *ex officio* members;
- (b) to have fix tenure of elected or nominated members;
- (c) to remove the President, Vice-President and members on grounds of misconduct or incapacity;
- (d) to dissolve any committee of the Central Council if it persistently defaults or abuses its powers; and
- (e) to give directions to the Council in the public interest.

6. The proposed amendments will ensure timely election to the Central Council of Indian Medicine and streamline its functioning.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 11th March, 2005.

A. RAMADOSS.

ANNEXURE

EXTRACTS FROM THE INDIAN MEDICINE CENTRAL COUNCIL ACT, 1970

(48 OF 1970)

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2. (1) In this Act, unless the context otherwise requires,—

Definitions.

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CHAPTER II

THE CENTRAL COUNCIL AND ITS COMMITTEES

3. (1) The Central Government shall, by notification in the Official Gazette, constitute for the purposes of this Act a Central Council consisting of the following members, namely:—

Constitution of Central Council.

* * * * *

7. (1) The President, a Vice-President or a member of the Central Council shall hold office for a term of five years from the date of his election or nomination, as the case may be, or until his successor shall have been duly elected or nominated, whichever is longer.

Term of office of President, Vice-President and members of Central Council.

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(4) Members of the Central Council shall be eligible for re-election or re-nomination.

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35. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. (1) The Central Council may, with the previous sanction of the Central Government, make regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such regulations may provide for—

Power to make regulations.

(a) the manner of election of the President and the Vice-Presidents of the Central Council;

(b) the management of the property of the Central Council and the maintenance and audit of its accounts;

(c) the resignation of members of the Central Council;

(d) the powers and duties of the President and Vice-President;

(e) the summoning and holding of meetings of the Central Council and the committees thereof, the times and places where such meetings are to be held, and the conduct of business thereat and the number of members necessary to constitute a quorum;

(f) the functions of the committees constituted under section 9 or section 10;

(g) the tenure of office, and the powers and duties of the Registrar and other officers and servants of the Central Council;

(ga) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fees payable with the scheme under sub-section (3) of section 13A;

(gb) any other factor under clause (g) of sub-section (8) of section 13A;

(h) the appointment, powers, duties and procedure of inspectors and visitors;

(i) the courses and period of study and of practical training to be undertaken, the subjects of examination and the standards of proficiency therein to be obtained, in any University, Board or medical institutions for grant of recognised medical qualifications;

(j) the standards of staff, equipment, accommodation, training and other facilities for education in Indian medicine;

(k) the conduct of professional examinations, qualifications of examiners and the conditions of admission to such examinations;

(l) the standards of professional conduct and etiquette and code of ethics to be observed by practitioners of Indian medicine;

(m) the particulars to be stated, and the proof of qualifications to be given in applications for registration under this Act;

(n) the manner in which and the conditions subject to which an appeal under section 27 may be preferred;

(o) the fees to be paid on applications and appeals, under this Act; and

(p) any matter for which under this Act provision may be made by regulations.

(2) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

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RAJYA SABHA

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BILL

further to amend the Indian Medicine Central Council Act, 1970.

(Dr. Anbumatai Ramadoss, Minister of Health & Family Welfare)