

MEDICAL.

4° and 5° Geo. VI., No. LI.

No. 51 of 1940.

AN ACT to amend the Medical Act, 1894.

[Assented to 30th December, 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Medical Act Amendment Act, 1940*, and shall be read as one with the Medical Act, 1894 (as amended by the Act 59 Victoria No. 17), and hereinafter called the principal Act. Short title.

2. Section eleven of the principal Act is amended by adding a subsection as follows:— Amendment
of s. 11 of
the principal
Act.

(2) Any person who satisfies the Board that he is a person of good fame and character and who has held a certificate of regional registration under section eleven A of this Act for a period or periods aggregating seven years or more shall be entitled to be registered as a medical practitioner under this Act if in the opinion of the Minister and at the absolute discretion of the Minister it is desirable in the interests of the general community of the State to grant such registration.

New section.

3. A section is inserted after section eleven of the principal Act, as follows:—

Registration
for the prac-
tice of medi-
cine and
surgery in
certain areas.
Compare
N.S.W. No. 5,
1939, s. 3.

- 11A. (1) Where the Governor is satisfied that—
- (a) the residents of any area are not adequately provided for in respect of medical or surgical services; or
 - (b) any hospital within the meaning of the Hospitals Act, 1927, or the Lunacy Act, 1903-1920, or the Mental Treatment Act, 1927, requires for the proper administration thereof one or more resident medical officers to be employed or engaged on the staff of such hospital and a duly qualified medical practitioner or a sufficient number of such duly qualified medical practitioners is or are not available for such appointment or engagement—

he may by proclamation published in the *Gazette* declare such area, or hospital, as the case may be, to be a region within the meaning of this section, and may in like manner alter any area aforesaid or revoke such proclamation.

(2) Where any area is declared by a proclamation under this section to be a region the Board shall, subject to this section, issue a certificate of regional registration in the prescribed form in respect of that region to a person who proves to the satisfaction of the Board that he—

- (a) has passed through a regular graded course of medical study of five or more years duration in a school of medicine in some part of the British Empire or some other country and—
 - (i) has received, after due examination, from a university, college, or other body with which such school of medicine is associated and which is duly recognised for the purpose in such part or country, a degree or diploma certifying to his ability to practise medicine or surgery; and
 - (ii) is or was by law entitled to be registered or to practise, as a medical practitioner in some part of the British Empire or some other country; and

- (b) has such experience in the practice of medicine and surgery as in the opinion of the Board is necessary for the proper provision of medical and surgical attention for the inhabitants of the proclaimed region;
- (c) has served as a junior resident medical officer in a hospital approved by the Minister for a period of not less than three months and has been certified by the responsible medical officers of that hospital as competent in the carrying out of the duties assigned to him in such hospital.

(3) Within seven days after the date of publication of a proclamation under this section declaring any area to be a region, and thereafter from time to time, as directed by the Minister, the Board shall, by advertisement published once at least in each of two or more newspapers published at Perth and circulating in Western Australia, invite applications from persons desirous of obtaining a certificate of regional registration in respect of that region.

Such advertisement shall specify a day (not being earlier than the seventh nor later than the fourteenth day after the day upon which the advertisement is published) on or before which such applications shall be lodged at or forwarded to the office of the Board.

The Minister may give a direction under this subsection in any case where he considers it desirable that a certificate of regional registration should be issued in respect of the region.

(4) The Board shall, at its first meeting after the day specified in any advertisement published pursuant to subsection (3) of this section, consider the applications lodged or forwarded in response to such advertisement.

(5) Each applicant shall submit to the Board proof that he possesses the qualifications and experience referred to in subsection (2) of this section.

(6) Each applicant shall attend in person before the Board, unless specially excused by the Board from so doing.

Each applicant may be represented by his solicitor or counsel.

The Board may require the attendance of any other person.

(7) The provisions of section nine of this Act shall, subject to subsection (6) of this section, apply, *mutatis mutandis*, to an application under this section.

(8) The Board shall grant the application of the applicant who in its opinion is most suitable to be the holder of the certificate of regional registration in respect of the region.

Provided that the Board may refuse to grant any application where in its opinion none of the applicants is suitable to be the holder of such a certificate.

The Board shall, as soon as practicable after it has granted an application, or has decided that none of the applicants is suitable to be the holder of a certificate of regional registration, notify the Minister accordingly, and, in cases where no application has been granted, shall specify in writing the reasons for refusing each application refused by the Board.

In cases where the Board has decided that none of the applicants is suitable to be the holder of a certificate of regional registration in respect of a particular region, a local authority or the Minister may appeal in the prescribed manner to a Judge of the Supreme Court, sitting in Chambers, against the decision of the Board within one month from the date of notification of such decision to the Minister, and thereupon the applications of all the applicants shall be dealt with by the Judge by way of appeal from the decision of the Board.

The Judge may decide the appeal on the evidence before the Board, or he may deal with the matter by way of rehearing, and for that purpose may summon and enforce the attendance of witnesses and take evidence on oath or affirmation in the same manner and to the same extent and shall have the same powers and authority as in the exercise of his ordinary jurisdiction.

The local authority or the Minister, as the case may be, and the Board and any applicant may be represented by counsel at the hearing of the appeal, but no order for payment of costs shall be made by the Judge.

The decision of the Judge determining the appeal shall be final and conclusive, and notwithstanding anything contained in this Act the Board shall give effect to such decision.

Rules of Court may be made for regulating the practice and procedure to be followed and observed in appeals under this subsection.

Any local authority appealing against a decision of the Board is hereby authorised and empowered to defray the expense of such appeal out of its funds.

In this subsection "local authority" means any council of a municipality or any board of a road district having its administrative offices within the region in relation to which the applications for a certificate of regional registration have been refused by the Board.

(9) The Board shall not grant an application under this section, unless satisfied that the applicant is a person of good fame and character and fit to practise medicine and surgery, and the provisions of section twelve and of any regulations made for the purposes specified in paragraph (d) of subsection (1) of section six of this Act shall, *mutatis mutandis*, extend to and in respect of the grant of an application under this section, and for the purposes of the application of such provisions and regulations a reference to a medical practitioner or to a person registered under this Act shall be construed as a reference to a person to whom a certificate of regional registration has been issued, and any provision relating to the erasure of the name of any person from the register shall be construed as a provision relating to the revocation of a certificate of regional registration.

(10) Where an application under this section is granted the Board shall, upon payment of the prescribed fee, issue a certificate of regional registration to the successful applicant.

(11) Where a certificate of regional registration has been issued to any person under this section, and while the same has effect, such person shall, for purposes connected with or relating to the practice of medicine and surgery within the region mentioned in the certificate of regional registration, be deemed to be a medical practitioner registered under this Act.

(12) The Minister may cancel a certificate of regional registration, if the person to whom the same was issued practises his profession outside the boundaries of the region mentioned in such certificate, and if, having regard to the circumstances in which such person so practised his profession and to the purposes of this section, the Minister considers it just and reasonable so to do.

(13) Subject to this Act a certificate of regional registration shall have effect for a period of one year, but, if not cancelled or revoked, shall be renewed by the Board from time to time for a like period upon the application of the person to whom the same was issued.

Amendment
of s. 21 of
the principal
Act.

4. Section twenty-one of the principal Act is amended by inserting after the word "Act" in line two of paragraph (4) the words "or for himself or any other person obtains or attempts to obtain the issue of a certificate of regional registration under section eleven A."

Citation of
principal Act
as amended.

5. The principal Act as amended by this Act may be cited as the Medical Act, 1894-1940.