



Number 14 of 2023

Regulated Professions (Health and Social Care) (Amendment) Act 2023



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**REGULATED PROFESSIONS (HEALTH AND SOCIAL CARE) (AMENDMENT) ACT
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Number 14 of 2023

**REGULATED PROFESSIONS (HEALTH AND SOCIAL CARE) (AMENDMENT) ACT
2023**

An Act to make miscellaneous amendments to the Health and Social Care Professionals Act 2005, the Medical Practitioners Act 2007 and the Regulated Professions (Health and Social Care) (Amendment) Act 2020; and to provide for related matters. [6th June, 2023]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Regulated Professions (Health and Social Care) (Amendment) Act 2023.
(2) *Section 6* shall come into operation on such day or days as the Minister for Health may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definition

2. In this Act, “Act of 2007” means the Medical Practitioners Act 2007.

PART 2

AMENDMENT OF HEALTH AND SOCIAL CARE PROFESSIONALS ACT 2005

Definition (*Part 2*)

3. In this Part, “Act of 2005” means the Health and Social Care Professionals Act 2005.

Amendment of section 91 of Act of 2005

4. Section 91 of the Act of 2005 is amended—

- (a) in subsection (1), by the substitution of “Subject to subsections (2) and (4A), the registration board of a designated profession” for “The registration board of a designated profession”,
- (b) by the substitution of the following subsection for subsection (2):
 - “(2) The Social Care Workers Registration Board shall grant registration to a person who—
 - (a) during the period of 5 years ending on the date on which he or she makes an application under section 37, was engaged in the State, a Member State or the United Kingdom in the practice of the profession of social care worker within the meaning, where the Social Care Workers Registration Board has specified such a meaning in bye-laws, of those bye-laws, for a period (or periods which, when taken together, amount to such period) of not less than 2 years or such other period as may be specified in those bye-laws,
 - (b) applies during the transitional period to the Social Care Workers Registration Board for registration,
 - (c) complies with section 37(2) and with any requirement imposed on, or request made to, the person under section 37(3) as applied by this section,
 - (d) meets one or more of the following requirements:
 - (i) the person holds a qualification listed opposite the profession of social care worker in the third column of Schedule 3 or a corresponding qualification;
 - (ii) the person holds a professional qualification that, in the opinion of the Social Care Workers Registration Board, is sufficiently relevant to the profession of social care worker and attests to a standard of proficiency corresponding to a qualification listed opposite the profession in the third column of Schedule 3;
 - (iii) the person successfully completes an assessment of professional competence set by the Social Care Workers Registration Board in accordance with any guidelines issued by the Council;
 - (iv) subject to subsections (2A) and (3), the person’s employer or former employer attests, by written opinion, to the person’s having achieved the standard of proficiency required for the practice of the profession of social care worker,
 - (e) satisfies the Social Care Workers Registration Board that the person is a fit and proper person to engage in the practice of the profession of social care worker, and
 - (f) pays the required fee to the Council.”,
- (c) by the insertion of the following subsection after subsection (2):

- “(2A) Nothing in subsection (2)(d)(iv) shall be construed to prevent or restrict the Social Care Workers Registration Board from refusing to grant registration to a person where it is satisfied that it is in the public interest to do so having regard to the person’s proficiency in the profession of social care worker by reference to—
- (a) the competence of the employer or former employer concerned to form an opinion, or
 - (b) the duration of the employment relationship between the person and the employer or former employer concerned.”,
- (d) by the substitution of the following subsection for subsection (3):
- “(3) An opinion is not valid for the purpose of subsection (2)(d)(iv) unless the employer or former employer concerned has, in forming the opinion, adhered to any assessment guidelines issued by the Council for that purpose, including on—
- (a) an employer’s competence to form an opinion for the purpose of subsection (2)(d)(iv), and
 - (b) the minimum duration of an employment relationship between the applicant and an employer required to form an opinion for the purpose of subsection (2)(d)(iv).”,
- (e) by the deletion of subsection (4), and
- (f) by the insertion of the following subsection after subsection (6):
- “(7) In this section—
- ‘Member State’ means—
 - (a) a state, other than the State, which is a member of the European Union,
 - (b) a state, other than a member of the European Union, which is a party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by all subsequent amendments to that agreement, and
 - (c) Switzerland;
 - ‘United Kingdom’ means—
 - (a) the United Kingdom of Great Britain and Northern Ireland,
 - (b) the Channel Islands, and
 - (c) the Isle of Man.”.

Amendment of section 95 of Act of 2005

5. Section 95 of the Act of 2005 is amended—

- (a) in paragraph (b) of subsection (1), by the deletion of “for the purposes of and”,
- (b) by the insertion of the following subsection after subsection (3):
 - “(3A) After consulting the registration board of a designated profession and any organisations that he or she considers appropriate, the Minister may, by regulation—
 - (a) prescribe an additional qualification for the purposes of the third column of Schedule 3 that, in the opinion of the Minister, is sufficiently relevant to the corresponding profession listed in the second column of that Schedule and attests to a standard of proficiency corresponding to a qualification specified for that profession in the third column of that Schedule, and
 - (b) vary a reference to a qualification specified in the third column of Schedule 3, where, in the opinion of the Minister, the reference to the qualification concerned is no longer accurate, due to—
 - (i) a change in the title of the qualification concerned,
 - (ii) a change in the name of the institution that awarded the qualification concerned, or
 - (iii) a change in the period specified for the awarding of a specific qualification.”,
- (c) in subsection (4), by the substitution of “subsection (3) or (3A)” for “subsection (3)”, and
- (d) in subsection (7), by the substitution of “subsection (3) or (3A)” for “subsection (3)”.

PART 3

AMENDMENT OF MEDICAL PRACTITIONERS ACT 2007

Amendment of section 10 of Act of 2007

6. Section 10 of the Act of 2007 is amended, in subsection (2)—

- (a) by the substitution of the following paragraphs for paragraphs (d) and (e):
 - “(d) the staff and former staff of the Council,
 - (e) the persons who, before the commencement of *section 6* of the *Regulated Professions (Health and Social Care) (Amendment) Act 2023*, had been previously appointed under *section 58(1)*,”
- and
- (b) by the insertion of the following paragraphs after paragraph (e):

- “(f) the persons with whom the Council has made an arrangement under section 7(5),
- (g) the authorised officers and former authorised officers, and
- (h) the persons appointed or formerly appointed under section 58(1)(b).”.

Amendment of section 49 of Act of 2007

7. Section 49 of the Act of 2007 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) The Council shall register in the Trainee Specialist Division a medical practitioner who has completed a course of study wholly or mainly in the State, a Member State or the United Kingdom, resulting in the award of a basic medical qualification and who intends to practise medicine in an individually numbered, identifiable intern post which has been approved by the Council for the purposes of intern training.”,

and

(b) by the substitution of the following subsection for subsection (6):

“(6) In this section—

‘Member State’ means—

- (a) a state, other than the State, which is a member of the European Union,
- (b) a state, other than a member of the European Union, which is a party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by all subsequent amendments to that agreement, and
- (c) Switzerland;

‘relevant day’ means the date specified in the notice referred to in subsection (5) published in *Iris Oifigiúil* as the date on which the Council shall commence to grant certificates of experience;

‘United Kingdom’ means—

- (a) the United Kingdom of Great Britain and Northern Ireland,
- (b) the Channel Islands, and
- (c) the Isle of Man.”.

Amendment of section 80A of Act of 2007

8. Section 80A of the Act of 2007 is amended, in subsection (1), by the substitution of “subsection (2) or that subsection as modified in accordance with subsection (3)” for

“subsection (1A) or (1B)”.

Amendment of section 80B of Act of 2007

9. Section 80B of the Act of 2007 is amended by the substitution of “subsection (2) or that subsection as modified in accordance with subsection (3)” for “subsection (1A) or (1B)”.

PART 4

AMENDMENT OF REGULATED PROFESSIONS (HEALTH AND SOCIAL CARE) (AMENDMENT) ACT 2020

Definition (Part 4)

10. In this Part, “Act of 2020” means the Regulated Professions (Health and Social Care) (Amendment) Act 2020.

Amendment of section 78 of Act of 2020

11. (1) Section 78 of the Act of 2020 is amended, in subparagraph (xii) of paragraph (b)—
- (a) by the substitution of the following definition for the definition of “approved medical degree”:
- “ ‘approved medical degree’ means—
- (a) a degree awarded in consequence of the completion of a programme of medical education and training approved under section 88(2)(a)(i)(I),
- (b) a degree, diploma or other qualification recognised in accordance with section 88(7), or
- (c) a qualification that meets the requirements for recognition under section 36D(b);”
- (b) by the substitution of the following definition for the definition of “authorised officer”:
- “ ‘authorised officer’ means a person appointed under section 58(1)(a);”
- and
- (c) by the deletion of the definition of “Irish formal qualification”.
- (2) Paragraphs (a) and (c) of subsection (1) shall come into operation on the day on which subparagraph (xii) of section 78(b) of the Act of 2020, insofar as that subparagraph relates to the insertion of the definitions of “approved medical degree” and “Irish formal qualification”, comes into operation.

- (3) *Paragraph (b) of subsection (1)* shall come into operation on the day on which subparagraph (xii) of section 78(b) of the Act of 2020, insofar as that subparagraph relates to the insertion of the definition of “authorised officer”, comes into operation.

Amendment of section 81 of Act of 2020

12. (1) Section 81 of the Act of 2020 is amended, in paragraph (a), by the substitution of the following subparagraph for subparagraph (iv):

“(iv) by—

(I) the substitution of the following paragraphs for paragraphs (i) and (j):

‘(i) specification of the examinations for the purposes of subparagraph (i) of section 44B(1)(a),

(j) the specification of the rules for the purposes of subparagraph (iv) of section 44B(1)(a),’

and

(II) the insertion of the following paragraph after paragraph (i):

‘(ia) the specification of the grounds for the purposes of subparagraph (ii) of section 44B(1)(a),’”.

- (2) This section shall come into operation on the day on which subparagraph (iv) of paragraph (a) of section 81 of the Act of 2020 comes into operation.

Amendment of section 88 of Act of 2020

13. (1) Section 88 of the Act of 2020, insofar as that section relates to the insertion of section 36D of the Act of 2007, is amended—

(a) by the renumbering of the said section 36D as subsection (1) of that section,

(b) by the substitution of the following paragraph for paragraph (a) of the said section 36D:

“(a) has been awarded a degree in consequence of the completion, wholly or mainly in the State, of a programme of medical education and training approved under section 88(2)(a)(i)(I),”

(c) in paragraph (b) of the said section 36D—

(i) by the substitution of the following subparagraph for subparagraph (i):

“(i) arising from a course of study completed wholly or mainly in a Member State, and”,

and

(ii) in subparagraph (ii), by the substitution of “certificate of experience, or” for “certificate of experience.”,

(d) by the insertion of the following paragraph after paragraph (b) of the said section 36D:

“(c) has been awarded a medical degree—

- (i) completed wholly or mainly in the United Kingdom, and
- (ii) which meets the relevant criteria set for assessing applications by persons for entry in the register of interns specified in rules made under section 11.”,

and

(e) by the insertion of the following subsection after subsection (1), renumbered under *subsection (1)*, of said section 36D:

“(2) In this section, ‘United Kingdom’ means—

- (a) the United Kingdom of Great Britain and Northern Ireland,
- (b) the Channel Islands, and
- (c) the Isle of Man.”.

(2) This section shall come into operation on the day on which section 88 of the Act of 2020, insofar as that section relates to the insertion of section 36D of the Act of 2007, comes into operation.

Amendment of section 96 of Act of 2020

14. (1) Section 96 of the Act of 2020, insofar as that section relates to the insertion of section 44B of the Act of 2007, is amended by the substitution of the following subsection for subsection (1) of the said section 44B:

“(1) Subject to subsection (2), a qualification held by a person meets the requirements for recognition as a qualification (in this Act referred to as a ‘general qualification’) for the purposes of registering that person in the General Division if the person—

- (a) has an approved medical degree and—
 - (i) has passed an examination specified in rules made under section 11 for the purposes of this subparagraph,
 - (ii) is exempted from subparagraph (i) by virtue of falling within a ground, specified in rules made under section 11 for the purposes of this subparagraph, for such an exemption,
- (iii) has been granted a certificate of experience, or
- (iv) subject to rules made under section 11 for the purposes of this subparagraph, has been granted a document which, in the opinion of the Council, is at least the equivalent of a certificate of experience,

or

- (b) has evidence of a formal qualification in basic medical training completed in a Member State and specified in point 5.1.1 of Annex V to Directive 2005/36/EC.”.
- (2) This section shall come into operation on the day on which section 96 of the Act of 2020, insofar as that section relates to the insertion of section 44B of the Act of 2007, comes into operation.

Amendment of section 110 of Act of 2020

15. (1) Section 110 of the Act of 2020 is amended—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) by the substitution of the following subsections for subsections (1) and (2):

‘(1) The chief executive officer may appoint—

(a) such and so many persons (including any members of the staff of the Council) as he or she deems appropriate to be authorised officers to investigate complaints and to assist the chief executive officer and the Preliminary Proceedings Committee in relation to complaints for such period and subject to such terms as the chief executive officer may determine, and

(b) such other persons as he or she deems appropriate to provide the chief executive officer, the authorised officers or the Preliminary Proceedings Committee with such advice, assistance or expertise as may be required in relation to the consideration or investigation of complaints for such period and subject to such terms as the chief executive officer may determine.

(2) Subject to subsection (4), the chief executive officer shall specify the functions to be performed by authorised officers.’”,

and

(b) in paragraph (b)—

(i) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) by the substitution of the following paragraphs for paragraphs (d) to (f):

‘(d) reporting to the chief executive officer;

(e) requesting persons to provide the chief executive officer with statements in writing concerning any matter relevant to

the chief executive officer's or Preliminary Proceedings Committee's functions and examining statements given in response to the requests;

- (f) requesting suitably qualified experts to provide an authorised officer, the chief executive officer or the Preliminary Proceedings Committee with advice and assistance required to assist in the performance of their functions; and' ”,

and

- (ii) by the insertion of the following subparagraph after subparagraph (ii):

“(iii) by the insertion of the following paragraph after paragraph (f):

- ‘(g) providing the chief executive officer or Preliminary Proceedings Committee with any other advice or assistance required in relation to the preparation of the chief executive officer's or Preliminary Proceedings Committee's reports.’”.

- (2) This section shall come into operation on the day on which paragraphs (a) and (b) of section 110 of the Act of 2020 come into operation.

PART 5

REPORT ON DEVELOPING FRAMEWORK TO GUIDE FUTURE DECISION MAKING

Report on developing framework to guide future decision making

16. The Minister shall, not later than 6 months after the commencement of this section, prepare a report in writing on the progress made in developing a framework to guide future decision making on the regulation of health and social care professions, and shall cause copies of the report to be laid before each House of the Oireachtas.