

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 4,021 of 22nd August, 2013

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B. 18/13

**BILL**

**FOR**

**AN ACT** to amend the Medical and Health Act, 1997 to, inter alia, make provision for the compulsory registration of allied health professionals.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Act may be cited as the Medical and Health (Amendment) Act 2013 and comes into operation on the day of publication.

**Amendment of section 2.**

2. In section 2 of the Medical and Health Act, 1997 (“the principal Act”)–

(a) after the definition of “Act of Accession 2003” insert–

““allied health professional” means a person who practises a health profession specified in Part 1 of Schedule 13 and is registered under section 7 and under Part IIA of this Act, and the term “allied health profession” shall be construed accordingly;”;

(b) in the definition of “register” for “Pharmacists and Dispensers” substitute “Pharmacists, Dispensers and Allied Health Professionals”.

**Amendment of section 7.**

3. In section 7 of the principal Act–

- (a) in the section heading, for “dentists and pharmacists” substitute “dentists, pharmacists and allied health professionals”;
- (b) at the end of subsection (1) insert “or Part IIA”;
- (c) in subsection (2)–
  - (i) at the end of paragraph (f) substitute “;” for “.”; and
  - (ii) after paragraph (f) insert–
    - “(g) Part IV containing the list of registered allied health professionals.”.

**Amendment of section 8.**

4. In section 8 of the principal Act–

- (a) in subsection (1)–
  - (i) in paragraph (b) for “; or” substitute “;”;
  - (ii) delete paragraph (c);
- (b) delete subsections (2) and (3);
- (c) in subsection (4) for “A person” substitute “Subject to section 21B, a person”.

**Amendment of section 9.**

5. In section 9(1) of the principal Act after “provisions of this section” insert “and section 21B,”.

**Amendment of section 10.**

6.(1) In the section heading to section 10, after “rights” insert “-medical practitioner”.

(2) At the end of section 10(5) of the principal Act insert–

“, save that the Board shall have the right to refuse registration pursuant to the provisions of this section if–

- (a) it is satisfied that an applicant has failed to meet ongoing training requirements of his professional governing body; or
- (b) the applicant has failed to remain in current practice since the date that he asserts he has acquired rights to practise in Gibraltar.”.

**New section 10A.**

7. After section 10 insert the following section–

**Acquired rights- pharmacists.**

10A. A pharmacist who prior to the Medical and Health (Amendment) Act 2013 was registered under section 8 shall remain registerable notwithstanding the provisions of that Act as regards section 8.”.

**Amendment of section 14.**

8. In section 14(2)(c)(i) of the principal Act for “for a period, not exceeding 36 months; and” substitute “for such a period as the Board directs”.

**Insertion of sections 21A and 21B.**

9. After section 21 of the principal Act insert–

**“Dentist and pharmacists- requirement to comply with code of ethics.**

21A. Where the General Dental Council of the United Kingdom or the Royal Pharmaceutical Society of the United Kingdom subscribes to or promulgates its own code of ethics a registered dentist or pharmacist, as the case may be, shall in his professional conduct comply with that code of ethics subject to such modifications as practise in Gibraltar may require.

**Waiver of fees.**

- 21B.(1) A medical practitioner, dental practitioner, pharmacist or Allied Health Professional who at the time he applies for registration proves to the satisfaction of the Board that he is registered with the relevant registering body in the United Kingdom or an EEA State shall not be required to pay the registration fee.
- (2) A person who seeks to rely on the waiver in subsection (1) shall remain registered with the relevant United Kingdom or EEA State registering body for the duration of his registration in Gibraltar.
- (3) A person who being registered in Gibraltar fails to maintain his registration with the relevant United Kingdom or EEA State registering body shall be liable to payment of the fees prescribed in Schedule 2.”.

**Insertion of Part IIA.**

10. After section 24 of the principal Act insert–

**“PART IIA  
ALLIED HEALTH PROFESSIONALS**

**Definitions.**

- 24A. In this Part, unless the context otherwise requires–

“Board” means the Medical Registration Board established under section 4;

“protected title” means any of the titles specified in Part 1 of Schedule 13.

**Registration.**

- 24B.(1) Subject to the provisions in this Part, a person who satisfies the Board that he is of good character and that he is registered in the United Kingdom, with the relevant

professional body listed in Part 2 of Schedule 13, shall be entitled to be registered in the appropriate part of the register.

- (2) All registrations under subsection (1) shall expire on 31 October of each year.
- (3) The Minister may by notice in the gazette amend the date referred to in subsection (2) and where the date of expiry is amended to a date later than 31 October of that year, a person who is already registered shall be deemed to remain registered up to the amended date.

**Renewals.**

24C.(1) A person whose registration expires by virtue of subsection (2) may prior to the expiry date apply to register for a further period commencing at the termination of the earlier period of registration.

- (2) A person who applies for the renewal of his registration shall be re-registered where he provides to the Board a declaration—
  - (a) that there has been no change in the information or evidence upon the basis of which he was registered; or
  - (b) setting out the change in the information or evidence upon the basis of which he was registered; and the Board are satisfied that the change is not of the kind or extent that would result in the applicant ceasing to be entitled to registration.
- (3) The declaration referred to in sub-section (2) shall be in such form and accompanied by such documentary evidence as may be prescribed by the Board.

**Determination of application for registration.**

24D.(1) The Board may—

- (a) refuse to grant an application for registration or renewal of registration if, in its opinion, the applicant—

- (i) is, or has been, engaged in any activity which is likely to reflect discredit on the profession in respect of which that person seeks registration;
  - (ii) is not of good character or reputation;
  - (iii) fails to provide the Board with any information or documentary evidence which the Board has required; or
- (b) attach any condition to the registration or renewal.
- (2) Where the Board refuses to grant the application or renewal, or grants the application or renewal subject to conditions, it shall furnish the applicant with a statement in writing of its reasons for so doing.

**Mode of registration.**

24E. Registration shall be effected by the entry in the appropriate part of the register referred to in section 7 of the particulars of every person entitled to registration under this Part.

**Requirement to comply with code of ethics.**

24F. Where an allied health professional's United Kingdom registering body subscribes to or promulgates its own code of ethics a registered person shall in his professional conduct comply with that code of ethics subject to such modifications as practise in Gibraltar may require.

**Duty to inform about material change.**

24G. It shall be the duty of an allied health professional to inform the Board in writing about any material change in the information or evidence upon the basis of which he was so registered.

**Registration subject to compliance with conditions.**

24H. Where an allied health professional fails to comply with any condition of the registration imposed by the Board, after

inquiry and if the Board thinks it proper, the Board may suspend that person from practice in the regulated profession until the conditions are complied with by that person or order the name of that person to be removed from the register.

**Removal from the United Kingdom register.**

- 24I. Where an allied health professional is removed from the United Kingdom register, that person must on receiving notification—
- (a) immediately cease to practise in Gibraltar; and
  - (b) notify the Board of his removal from the United Kingdom register.

**Power to make Regulations.**

- 24J. For the purposes of this Part, the Minister may make regulations—
- (a) providing for the procedure for removal from and restoration to the register;
  - (b) regulating the practice of such professionals;
  - (c) prescribing the conditions under which and the manner in which any registered person may be suspended from practise by the Board or by any of its committees;
  - (d) prescribing the titles that may be used by registered persons.

**Amendment of Schedule 13.**

- 24K. The Minister may amend Schedule 13 by notice published in the Gazette.”.

**Amendment of section 40.**

11. In section 40 of the principal Act after “under Part II” insert “or Part IIA”.

**Amendment of section 44.**

12. In section 44 of the principal Act—

- (a) in subsection (1)—
  - (i) insert “or” at the end of paragraph (b); and
  - (ii) after paragraph (b) insert—
    - “(c) is an allied health professional and is judged by the Board to have breached any provision in Part IIA,”;
- (b) in subsection (2)—
  - (i) after “EEA State” insert “(including the United Kingdom)”;
  - (ii) after “officially recognised to practise” insert “medicine,”;
  - (iii) after “or is prohibited from practising” insert “medicine,” and
  - (iv) on both occasions where the words “nursing or midwifery” appears, substitute “nursing, midwifery or an allied health profession”.

**Insertion of section 54A.**

13. After section 54 of the principal Act insert—

**“Use of protected titles: allied health professions.**

54A(1). An allied health professional shall, by virtue of being so registered, be entitled to practise the profession for which that person is registered and to take or use the protected title appropriate to the profession as mentioned in Part 1 of Schedule 13.

- (2) The Minister may by notice in the Gazette, amend, alter or modify any protected title or the name of any allied health profession specified in Part 1 of Schedule 13, and in the event of such amendment, alteration or modification, an allied health professional shall use the protected title as amended, altered or modified.”.

**Amendment of section 55.**

14. In section 55 of the principal Act–

- (a) in the title for “or Health Visitor” substitute “, Health Visitor or Allied Health Professional”;
- (b) for “midwife or health visitor” substitute “midwife, health visitor or allied health professional”; and
- (c) at the end of paragraph (a) insert “(except that that this paragraph shall not apply to allied health professionals)”.

**Amendment of section 76.**

15. In section 76(1) of the principal Act–

- (a) at the end of paragraph (a) delete “or”; and
- (b) for paragraph (b) substitute–
  - “(b) not being registered in accordance with the provisions of this Act practises as a medical practitioner, dentist or pharmacist, whether or not he may be entitled to registration under the provisions of this Act; or
  - (c) is a person other than a person duly registered as a pharmacist under this Act who–
    - (i) in the course of any trade or business prepares, mixes, compounds or dispenses any medicinal product or supplies any poison except such person or category of person as may be prescribed acting under the supervision of a registered pharmacist;

- (ii) assumes the use of the word “pharmacist”, “pharmacist”, “chemist” or “chemist” or “druggist” or “dispenser” or any similar combination of such words, or takes or uses in connection with the sale of goods by retail, any such title or otherwise represents himself as being a pharmacist;
- (iii) uses in connection with any business any title, emblem or description reasonably calculated to suggest that he or anyone employed in the business possesses any qualification with respect to the selling, dispensing or compounding of medicinal products or poisons other than the qualification which he in fact possesses;”.

**Insertion of section 78A.**

16. After section 78 of the principal Act insert—

**“Restriction on engaging in an allied health profession.**

78A.(1) No person shall, without being registered under Part IIA of this Act—

- (a) engage in an allied health profession; or
  - (b) use or permit to be used in connection with that profession any protected title, other title or name, emblem, addition or description implying that the person is—
    - (i) registered in respect of that profession, or
    - (ii) qualified to engage in that profession.
- (2) A person who contravenes subsection (1)(a) is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine up to level 4 on the standard scale.
- (3) A person who contravenes the provisions of subsection (1)(b) is guilty of an offence and is liable on summary conviction to

imprisonment for three months and to a fine up to level 3 on the standard scale.”.

**Substitution of Schedule 2.**

17. For Schedule 2 to the principal Act substitute—

**“SCHEDULE 2.**

Sections 14(2) and 21B(4)

**FEES**

1. Full registration under Part I of the register—

1st registration for each 12 month period or part thereof; the sum equivalent to 125% of the current annual retention fee published by the General Medical Council of the United Kingdom.

2nd or subsequent registration for each 12 month period or part thereof; the sum equivalent to 125% of the current annual retention fee published by the General Medical Council of the United Kingdom

2. Limited registration under Part IB of the register under sections 14 to 20 for each 12 month period or part thereof. . . . . £100.00

**Dentists.**

3. Registration under Part II of the register for each 12 month period or part thereof the sum equivalent to 125% of the current annual retention fee published by the General Dental Council of the United Kingdom.

**Pharmacists.**

4. Registration under Part III of the register for each 12 month period or part thereof; the sum equivalent to 125% of the current annual retention fee published by the Royal Pharmaceutical Society of the United Kingdom

**Dispensers.**

5. Registration under Part IIIA of the register for each 12 month period or part thereof. . . . £25.00

**Allied health professionals.**

6. Registration under Part IV of the register for each 12 month period or part thereof the sum equivalent to 125% of the current annual retention fee published by the relevant United Kingdom registering body.”

**Insertion of Schedule 13.**

18. After Schedule 12 to the principal Act insert—

**“SCHEDULE 13**

Sections 2, 24A, 24K, 54A

**PART 1  
REGULATED PROFESSIONS AND PROTECTED TITLES**

<i>Regulated profession</i>	<i>Protected title</i>
Arts Therapist	Art Therapist Art Psychotherapist Drama Therapist Music Therapist
Biomedical Scientist	Biomedical Scientist
Chiropodist and podiatrist	Chiropodist Podiatrist
Chiropractor	Chiropractor
Clinical Scientist	Clinical Scientist
Dental Hygienist	Dental Hygienist
Dental Technician	Dental Technician
Dental Therapist	Dental Therapist
Dietitian	Dietician Dietitian
Dispensing Optician	Dispensing Optician
Hearing Aid Dispenser	Hearing Aid Dispenser
Occupational Therapist	Occupational Therapist
Operating Department Technician	Operating Department Technician

Optometrist	Optometrist
Orthodontic Therapist	Orthodontic Therapist
Orthoptist	Orthoptist
Orthotist and Prosthetist	Prosthetist Orthotist
Osteopath	Osteopath
Paramedic	Paramedic
Physiotherapist	Physiotherapist Physical Therapist
Practitioner Psychologist	Clinical Psychologist Counselling Psychologist Educational Psychologist Forensic psychologist Health Psychologist Occupational Psychologist
Radiographer	Radiographer Diagnostic Radiographer Therapeutic Radiographer
Speech and Language Therapist	Speech and Language Therapist Speech Therapist

**PART II**

**UNITED KINGDOM REGISTERING BODY**

General Chiropractic Council  
General Dental Council  
General Optical Council  
General Osteopathic Council  
Health Care Professionals Council  
The British Psychological Society”.

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**EXPLANATORY MEMORANDUM**

This Bill amends the Medical and Health Act 1997 (the principal Act).

Clause 6 of the Bill aims to curtail the ability of a person to avail himself of the acquired rights provisions in section 10 of the Act, where that person has not kept up to date with on going training requirements or failed to remain in practise. Clause 7 inserts a new section 10A which is intended to provide for those pharmacists who are already registered in Gibraltar. It is possible that a limited number of these pharmacists would not be capable of registration in the United Kingdom due to their qualifications no longer being recognised there.

Clause 9 of the Bill inserts 2 sections. Section 21A obliges dentists and pharmacists to comply with any code of ethics that is subscribed to or promulgated by the UK registering body. Section 21B provides for the waiver of the requirement to pay registration fees were a medical or dental practitioner, pharmacist or allied health professional is registered with a UK or EEA State registering body. Where such registration is not maintained, the amendments to Schedule 2 provide for payment of the sum equivalent to 125% of the prevailing fee set by the relevant UK registering body.

Clause 10 of the Bill inserts Part IIA. Under this part provision is made for the registration and renewal of registration of regulated professionals, whose protected titles are set out in Schedule 13.

A person seeking to register in Gibraltar as an allied health professional will need to prove, and maintain his registration with the relevant United Kingdom registering body, which are set out in Part II of Schedule 13.

Section 24F requires a registered allied health professional complies with the code of ethics promulgated by the relevant United Kingdom registering body, subject to such modifications as practise in Gibraltar may require.

Clause 12 amends section 44 of the principal Act to inter alia extend the recognition of the prohibition on the right by medical practitioners to practise where this has been decreed by the responsible authorities in the UK or in an EEA State.

Clause 13 inserts section 54A provides for the use of the protected titles set out in Part I of Schedule 13 by a registered allied health professional.

Clause 15 amends section 76 of the principal Act to create the offence of practising as a medical practitioner, dentist or pharmacist whilst unregistered.

Clause 16 inserts section 78A which creates the offence of engaging in an allied health profession or using a protected title without being registered.