

Bombay Homoeopathic Practitioners Act, 1959

12 of 1960

[12 March 1960]

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Bombay Homoeopathic Practitioners Act, 1959

12 of 1960

[12 March 1960]

An Act to consolidate and amend the law relating to the regulation of qualifications and registration of Homoeopathic 2[* * *]
[Practitioners in the State of Bombay]. WHEREASit is expedient to consolidate and amend the law relating to the regulation of qualifications and registration of Homoeopathic 3[* * *]

Practitioners in the State of Bombay with a view to encourage the study and spread 4[of this systems]; It is hereby enacted in the Tenth Year of the Republic of India as follows, namely :-

NOTES

Statement of Objects and Reasons : Object.- With a view to securing uniformity in the law relating to the regulation of qualifications and registration of Homoeopathic Practitioners throughout the State and with a view to bringing the practitioners of both the Homoeopathic and Biochemic Systems of Medicine within the purview of one Act, it was proposed to enact a single law on the subject and to repeal the corresponding laws prevailing in the different parts of the State.- Mah. Act No. XII of 1960.

Statement of Objects and Reasons.- Under the first proviso to clause (iii) of sub-section (3) of section 18 of the Bombay Homoeopathic Act, 1951, the Board of Homoeopathic System of Medicine had to remove from Part C of the register the names of such of the practitioners who failed to pass the third and final examination for the diploma of LCEH within seven years from the date on which Chapter IV of the Act came into force (i.e., before 22nd January, 1959). This acted harshly on such practitioners who failed to pass the examination. To avoid hardship the Act was amended to enable such practitioners to continue on the register without being required to pass the said examination, as in the case of practitioners enlisted under section 18 of the Bombay Medical Practitioners Act, 1938.- Mah. Act No. XXIX of 1959.

Statement of Objects and Reasons.- The Bombay Homoeopathic and Biochemic Practitioners Act, 1959, did not contain a provision to empower the Board and the Court of Examiners to constitute Executive Committees. As such Committees were necessary for the more convenient administration of the Board and the Court, it was necessary to amend the Act. It was also necessary to make provision empowering the State Government to make rules for the payment of fees and allowances to the members of Committees and sub-committees of the Board and the Court and to prescribe matters of detail in respect of the Executive Committees.- Mah. Act No. XX of 1962.

Statement of Objects and Reasons.- Under the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959, sub-committee of the Board Homoeopathic and Biochemic Systems of Medicine was appointed by Government to consider applications for registration from persons who before the day the Act came into force possessed any qualifications entitling them to registration under sub-section (1) of section 16 of the Madhya Pradesh Homoeopathic and Biochemic Practitioners' Act, 1951, as in force in

the Vidarbha region or from persons who had been regularly practising the Homoeopathic or Biochemic System of Medicine in the State for ten years or more before 25th August, 1959. The sub-committee also considered applications for enlistment from persons practising on 25th August, 1959, but who had not completed ten years' practice on that day. An appeal against the decision of the sub-committee lay to the Board.- Mah. Act No. XXXI of 1963. The term of office of the interim Board of Homoeopathic and Biochemic Systems of Medicine constituted under sub-section (2) of section 39 of the Bombay Homoeopathic and Biochemic Practitioner's Act, 1959, as extended from time to time, was to expire on the 25th October, 1966. There was no provision for extending its term further. The Appellate Authority constituted under section 20(10) had yet to hear some appeals. Unless these appeals were disposed of, it was not possible to start the work of preparation of the revised register of practitioners required for holding elections to the new Board. It was, therefore, necessary to extend further the term of the present Board. The Act is intended to provide for extension of the term of the said Board further by not more than one year, by which time the register would be revised and brought into force.- Mah. Act No. XXVI of 1966, Vide Statement of Objects and Reasons. Under section 20 of the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959, every person who possesses any of the qualifications specified in the First Schedule to the Act, was required to pay a fee of Rs. 10 to have his name entered in the register of practitioners maintained under the Act. Under section 26 of that Act every person registered or enlisted as a practitioner, was liable to pay to the Board a renewal fee of such amount and on such date or on such interval as may be prescribed by rules. Under rule 11 of the Bombay Homoeopathic and Biochemic Practitioners' (Registration and Enlistment) Rules, 1961, the renewal of registration and enlistment had to be made every second calendar year and the renewal is to be paid was rupees ten. It was proposed to provide for permanent registration of the practitioners who will seek registration henceforth and also of all those persons who have already been registered or enlisted under the Act heretofore, on payment of a fee of Rs. 100, once for all. It was also proposed to give an opportunity to those practitioners whose names have been removed from the register or list during the process of renewal. Under section 26 of the Act are stood immediately before the commencement of this Amendment Act, to get themselves registered. In order to maintain the register or list up-to-date, it

was proposed to provide for continuance of registration or enlistment after every five years on an application made by such practitioners, but without payment of any such fee- Mah. Act No. XXXIV of 1974 - Vide Statement of Objects and Reasons. The Board of Homoeopathic and Biochemic Systems of Medicine, Bombay, was dissolved by the Government in June, 1973, because of its failure to exercise the powers and to perform the duties conferred on it by or under the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 in regard to the printing and publication of the list of the names and qualifications of all practitioners and the holding of elections and reporting the names of elected members to enable Government to constitute a new Board in time. Government thereupon appointed under section 36(1) of the said Act as Administrator for a period of two years from 7th June, 1973 to exercise and perform all the powers and duties of the Board. A programme for the election of 8 members on the Board was announced in February, 1975 by the Registrar of the Board who is the Returning Officer. The last date for receiving voting papers by the Returning Officer was 22nd April, 1975 and the scrutiny and counting of votes was to take place on 24th April, 1975. In the meantime the elections were stayed under the orders of the High Court passed on a writ petition filed by one of the candidates. The term of the Administrator was due to expire on 6th June, 1975 and it was unlikely that the new Board would be constituted before that date. It was therefore suitable to take power to extend the term of office of the Administrator for its further period as long as it may be necessary so however that the aggregate period of appointment of the Administrator shall not exceed three years. As it was necessary to take immediate action for amending the Act for the purpose aforesaid and as the State Legislature was not in session the Government of Maharashtra promulgated the Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Ordinance, 1975 on the 28th day of May, 1975. The Act is intended to convert the Ordinance into an Act of State Legislature- Mah. Act No. XXIV of 1975 - Vide Statement of Objects & Reasons. In a writ petition filed by one of the candidates in connection with the election of 8 members of the Board of Homoeopathic and Biochemic Systems of Medicine, Bombay, which was proposed to be held in April, 1975, it was noticed that there was no specific provision in the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959, in regard to the authority to which an election petition could be filed by an

aggrieved candidate. With a view to removing this difficulty, it was considered necessary to amend section 4 of the Act for prescribing the authority to which election may be referred to. The Act is intended to achieve this object.- Mah. Act No. XLII of 1975 - Vide Statement of Objects and Reasons. The Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 (Bom. XII of 1960) had been enacted to provide for regulation of qualifications and registration of Homoeopathic and Biochemic Practitioners in the State of Maharashtra with a view to encouraging the study and spread of these systems. For this purpose the Act provided for constitution of the Board of Homoeopathic and Biochemic Systems of Medicine and the Court of Examiners of Homoeopathic and Biochemic Systems of Medicine. The Board with its nominated and elected members was last constituted in June, 1976 and the Court of Examiners with its nominated and elected members was last constituted in November, 1976. After the expiry of term of five years the members continued to hold office till the new Board or, as the case may be, Court were constituted. The State Government, having found that the Board and the Court both had failed to exercise and had exceeded or abused their powers, dissolved the Board in October, 1981 and the Court in August, 1983, and upon such dissolution appointed a person separately for the Board and the Court to exercise the powers and perform the duties of the Board, or as the case may be, the Court, under section 36. Such person could be appointed for a period not exceeding two years which might be further extended by the State Government so that the total period did not exceed three years in the aggregate. In the case of the person appointed as aforesaid for exercising the powers and performing the duties of the Board the period of his appointment for three years in the aggregate expired on the 29th October, 1984. There was no provision in section 36 or any other section of the Act to further extend the term of the person so appointed beyond the aggregate period of three years and therefore, steps to constitute a Board by nomination and election of the members thereof were required to be taken. In the meanwhile, Government had appointed a Committee to enquire into the working of the Act under the Chairmanship of Dr. (Shri) M. B. Gadekar, the then Minister of State for Public Health. This Committee had made important recommendations which included inter alia a recommendation for amalgamation of the Board and the Court of Examiners into one single corporate body to be called the Maharashtra Council of Homoeopathy so that the working of the Act could be streamlined

and the expenses incurred in the administration could be minimised. This implementation of the recommendations of this Committee entailed extensive amendments to the Act and necessary steps to promote legislation in that behalf were a foot. After enactment of such legislation it would have been necessary to frame rules for holding elections to the Council. It was not possible to have this legislation promoted or the rules made and the election to the Council held before the 29th October, 1984. It was, therefore, expedient that the term of office of the person appointed to exercise the powers and perform the duties of the Board be further extended by making suitable provision in that behalf in section 36 immediately. As both Houses of the State Legislature were then not in session and circumstances existed which rendered it necessary to take immediate action further to amend the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 suitably for the purpose aforesaid the Governor of Maharashtra promulgated the Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Ordinance, 1984 (Mah. Ord. IX of 1984) on the 18th October, 1984 - Mah. Act No. XXXI of 1984 - Vide Statement of Objects and Reasons. The Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 (Bom. XII of 1960) provided for constitution of Board of Homoeopathic and Biochemic Systems of Medicine and the Court of Examiners of Homoeopathic and Biochemic Systems of Medicine for the purpose of registration of Homoeopathic and Biochemic practitioners and regulation and qualifications, etc., in the State of Maharashtra. The State Government, however found that the Board and the Court had failed to exercise their powers and instead had exceeded or abused their powers. The Board and the Court were later dissolved in October, 1981 and August, 1988, respectively and a person was appointed to exercise the power and perform the duties of the Board/Court, as the case may be under section 36 of the Act. In the meantime, with a view to streamlining the working of the Act and minimising the expenses incurred in the administration, Government decided to amalgamate both the Board and the Court into one single corporate body to be called the Maharashtra Council of Homoeopathic and Biochemistry and for that purpose brought forward legislation to amend the Act suitably L. C. Bill No. V of 1985 providing inter alia for constitution of Maharashtra Council of Homoeopathy and Biochemistry had been passed by the State Legislature in its Monsoon Session held in June-August, 1985. Thereafter, the Bill had been forwarded through the Governor of

Maharashtra to the Government of India for obtaining the assent of the President thereto. As this Bill contained exhaustive amendments to the Act, the examination of the provisions made therein by any different Ministries of Government of India was likely to take some time which could have resulted into some delay in obtaining the assent of the President to the said Bill and thereafter to enact the same into an Act of the State Legislature. The term of the person appointed under section 36 of the Act was due to expire on the 29th October, 1985 and in case the assent of the President to the said Bill was not received and it was not enacted into an Act of the State Legislature before that date, there would have been hiatus as section 36 or no other section of the Act empowered the State Government to extend his term beyond the 29th October, 1985. It was, therefore, expedient to make a suitable provision for enabling the State Government to extend his term so as to avoid any hiatus and for that purpose to immediately amend the Act suitably. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Homoeopathic and Biochemic Practitioners Act, 1959, suitable for the purpose aforesaid, the Bombay Homoeopathic and Biochem;c Practitioners' (Amendment) Ordinance, 1985 (Mah. Ord. VII of 1985) was promulgated by the Governor of Maharashtra on the 28th October, 1985.- Mah. IV of 1986 - Vide Statement of Objects and Reasons. The term of the person appointed by the State Government under section 36 of the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 (Bom. XII of 1960) to exercise the powers and perform the duties of the Board of Homoeopathic and Biochemic Systems of Medicine, or as the case may be, the Court of Examiners of Homoeopathic and Biochemic Systems of Medicine was due to expire on 29th October, 1986. In the meantime, the L. C. Bill No. V of 1985 providing inter alia for amalgamation of the Board and the Court into one single corporate body to be called the Maharashtra Council of Homoeopathic and Biochemistry had been passed by the State Legislature and it was pending for assent of the President. Since however the term of the person appointed under section 36 of the Act was due to expire on 29th October, 1986 and as the assent of the President to the said Bill was not received before that date, there would have been hiatus and in order to avoid the same it was expedient to immediately amend the Act suitably before that date. As both Houses of the State

Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959, suitably for the purpose aforesaid, the Bombay Homoeopathic and Biochemic Practitioners' (Amendment) Ordinance, 1986 (Mah. Ord. VII of 1986) was promulgated by the Governor of Maharashtra on the 24th October, 1986.- Mah. XXXIX of 1986 - Vide Statement of Objects and Reasons. 1. For Statement of Objects and Reasons, see Bombay Government Gazette, 1959, Part V, pp. 652-655. 2. The words "and Biochemic" were deleted by Mah. 19 of 1988, Section 2. 3. The words "and Biochemic" were deleted by Mah. 19 of 1988, Section 3(a). 4. These words were substituted for the words "of these System", *ibid.*, Section 3(b).

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bombay Homoeopathic 1[* * *] Practitioners Act, 1959.

(2) It extends to the whole of the 2[State of Maharashtra].

(3) It shall come into force on such 3day as the State Government may, by notification in the Official Gazette, appoint.

NOTIFICATIONS

G. N., U. D. & P. H. D., No. BHP. 1059(A)- Unification,
dated 26th October, 1961

(M. G., Pt. IV-B, p. 1017)

In exercise of the powers conferred by sub-section (3) of section 1 of the Bombay Homoeopathic and Biochemic Practitioners Act, 1959 (Bom. XII of 1960), the Government of Maharashtra hereby appoints the 27th day of October, 1961 to be the day on which the said Act shall come into force.

G. N., U. D. & P. H. D., No. BHP. 1063/70363-H,
dated 29th August, 1964

(M. G., Pt. IV-B, p. 1122)

In exercise of the powers conferred by sub-section (2) of section 1 of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1963 (Mah. XXXI of 1963), the Government of Maharashtra hereby appoints the 1st day of September, 1964 to be the date on which the said Act shall come into force.

G. N., U. D. & P. H. D., No. BHP. 1068/66390-H,
dated 4th February, 1975

(M. G., Pt. IV-B, p. 296)

In exercise of the powers conferred by sub-section (2) of section 1 of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1974 (Mah. XXXIX of 1974), the Government of Maharashtra hereby appoints the 5th day of February, 1975 to be the date on which the said Act shall come into force.

G.N., M.E. & D.D., No. MHB. 1383/118/84/MED-8(i),
dated 26th August, 1988

(M.G.G., Pt. IV-B, dated 8.9.1988, p. 712)

In exercise of the powers conferred by sub-section (2) of section 1 of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985 (Mah. XVI of 1988), the Government of Maharashtra hereby appoints the 1st day of September, 1988, to be the date on which the said Act shall come into force.

G.N., M.E. & D.D., No. MHB. 1383/118/84/MED-8(ii),
dated 26th August, 1988

(M.G.G., Pt. IV-B, dated 8.9.1988, p. 712)

In exercise of the powers conferred by sub-section (2) of section 1 of the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment) Act, 1988 (Mah. XIX of 1988), the Government of Maharashtra hereby appoints the 1st day of September, 1988, to be the date on which the said Act shall come into force.

1. The words "and Biochemic" were deleted by Mah. 19 of 1988, Section 4.

2. These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960, Section 4.

3. 27th day of October, 1961, vide G. N., U. D., & P. H. D., No. BHP. 1059 (a) - Unification, dated 26th October, 1961.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context, -

(1) "Appointed day" means the day on which this Act comes into force;

1[(2)* * *]

2[(3)* * *]

(4) "By-laws" means the by-laws made under section 35;

3[(4A) "Central Council" means the Central Council of Homoeopathy constituted under section 3 of the Homoeopathy Central Council Act, 1973;]

NOTES

Object - Central Council.- The Homoeopathy Central Council Act, 1973 was constituted in 1973 to provide Central Council of Homoeopathy and maintenance of a Central Register of Homoeopathy.

According to section 3 of the said Act, five members are to be elected in accordance with the provisions of the First Schedule from each State in which a State Register of Homoeopathy is maintained.

(a) such number of members not exceeding five as may be determined by the Central Government in accordance with the provisions of the First Schedule from each State in which a State Register of Homoeopathy is maintained, to be elected from amongst themselves by persons enrolled on that register as practitioner of Homoeopathy;

(b) one member from each University to be elected from amongst themselves by the members of the Faculty or Department (by whatever name called) of Homoeopathy of that University :

Provided that, until any such Faculty or Department of Homoeopathy is started in at least seven Universities, the Central Government may nominate such number of members not exceeding seven as may be determined by the Central Government from amongst the teaching staff on medical institutions within India, so however, that the total number of members so nominated and elected under this clause shall in no case exceed seven;

(c) such number of members, not exceeding forty per cent. of the total number of members elected under clauses (a) and (b), as may be nominated by the Central Government, from amongst persons having special knowledge or practical experience in respect of Homoeopathy or other related disciplines :

Provided that, until members are elected under clause (a) or clause (b) in accordance with the provisions of this Act and the rules made thereunder, the Central Government shall nominate such number of members, being persons qualified to be chosen as such under the said clause (a) or clause (b), as the case may be, as that Government thinks fit; and references to elected members in this Act shall be construed as including references to members so nominated.

(2) The President and the Vice-President of the Central Council shall be elected by the members of the Central Council from amongst themselves in such manner as may be prescribed :

Provided that, for two years from the first constitution of the

Central Council, the President and the Vice-President shall be nominated by the Central Government from amongst the members of the Central Council and the President and the Vice-President so nominated shall, notwithstanding anything contained in sub-section (1) of section 7 hold office during the pleasure of the Central Government.

4[(5) "Council" means the Maharashtra Council of Homoeopathy 5[* * *] established under section 3;]

6[(6) * * *]

6[(7) * * *]

7[(8) "Homoeopathy" means the Homoeopathic system of medicine and includes the use of Biochemic remedies;]

(9) "Inspector" means an Inspector appointed by the 8[Council];

9[(10) * * *]

10[(11) "member" means a member of the Council;]

(12) "Practitioner" means a practitioner of the Homoeopathic 11[* * *] System of Medicine;

(13) "President" means the President of the 12[Council];

(14) "Recognised institution" means any institution recognised under section 30 for giving instructions in the courses leading to the examinations held by the 13[Council].

14[(14A) "recognised medical qualification" means any of the medical qualifications in Homoeopathy, included in the Second or Third Schedule to the Homoeopathy Central Council Act, 1973;]

NOTES

"Recognised medical qualifications"

Name of University Board or Medical Institution	Recognised Medical Qualification	Abbreviation for Registration	Remarks
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(1)	(2)	(3)	(4)
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Maharashtra	The Court of Examiners of Homoeopathic and Biochemic Systems of Medicine, Bombay		
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Court of Examiners in Homoeopathy	Licentiate of the Court of Examiners in Homoeopathy	Diploma in Homoeopathy and Bio-Chemistry	Fellow of the Court of Examiners in Homoeopathy
L. C.	E. H.	D. H.	B. F. C. E. H.
From December, 1961, onwards.			

From October, 1955, onwards.			
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In May, 1958 only.			
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(15) "Register" means the register of practitioners prepared and maintained under section 20 15[* * *];

(16) "Registered practitioner" means a practitioner whose name is for the time being entered in register;

(17) "Registrar" means the Registrar appointed under section 15;

- (18) "Regulations" means the regulations made under section 34;
- (19) "Rules" means the rules made under section 33;
- (20) "Schedule" means a Schedule appended to the Act.
- 16[(21) "Vice-President" means the Vice-President of the Council.]
1. Clause (2) was deleted by Mah. 19 of 1988, Section 5(a).
 2. Clause (3) was deleted by Mah. 16 of 1988, Section 2(a).
 3. Clause (4A) was inserted by Mah. 19 of 1988, Section 5(b).
 4. Clause (5) was substituted by Mah. 16 of 1988, Section 2(b).
 5. The words "and Biochemic" were deleted by Mah. 19 of 1988, Section 5(c).
 6. Clauses (6) and (7) were deleted by Mah. 16 of 1988, Section 2(c).
 7. Clause (8) was substituted for the original by Mah. 19 of 1988, Section 5(d).
 8. This word was substituted for the word "Court" by Mah. 16 of 1988, Section 2(d).
 9. Clause (10) was deleted, *ibid.*, Section 2(e).
 10. Clause (11) was substituted for the original, *ibid.*, Section 2(f).
 11. The words "or Biochemic" were deleted by Mah. 19 of 1988, Section 5(e).
 12. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 2(g)
 13. This word was substituted for the word "Court", *ibid.*, Section 2(h).
 14. Clause (14A) was inserted by Mah. 19 of 1988, Section 5(f).
 15. The words and figures "or section 21" were deleted by Mah. 19 of 1988, Section 5(g).
 16. Clause (21) was added by Mah. 16 of 1988, Section 2(j).

CHAPTER 2 CONSTITUTION, FUNCTIONS AND POWERS OF THE COUNCIL

3. Establishment And Incorporation Of Council, And Appointment Of Administrator :-

2[(1) (a) On the date of commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, a Council to be called "The Maharashtra Council of Homoeopathy" 3[* * *] shall be deemed to have been established.

(b) The Council shall be a body corporate by the name aforesaid, and have perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may by the said name sue and be issued.

(2) Notwithstanding anything contained in section 36 or 39, or any other provisions of this Act,-

(a) the State Government may appoint any person as in Administrator under this section to exercise all the powers and perform all the duties of the Council established under sub-section (1) during the period he holds office of the Administrator under sub-section (3);

(b) without prejudice to the provisions of clause (a), on and with effect from the date of commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, the persons appointed under section 36 to exercise all the powers and perform all the duties of the Board or the Court and holding office immediately before such commencement date shall be deemed to have been appointed as an Administrator and he shall exercise all the powers and perform all the duties of the Council established under sub-section (1) during the period he holds office of the Administrator under sub-section (3).

(3) The term of office of the Administrator functioning under sub-section (2) shall expire on the day immediately preceding the date on which the first meeting of the Council is held, after election of the members, under clause (a) of subsection (3) of section 4.

(4) The Administrator shall be paid from the fund of the Council such salary and allowances as the State Government may from time to time determine.]

1. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 5.

2. Section 3 was substituted for the original, *ibid.*, Section 4.

3. The words "and Biochemistry" were deleted by Mah. 19 of 1988, Section 6.

3A. Constitution Of Council :-

1[(1) The Council shall consist of the following eleven members, including the President and the Vice-President, -

(a) the Deputy Director of Homoeopathy, ex-officio;

(b) four members nominated by the State Government, from amongst persons having special knowledge or practical experience in respect of Homoeopathy 2[* * *];

(c) three members elected by registered practitioners whose names are entered in the register maintained under section 20, from amongst themselves;

(d) (i) one member elected by the Principals or Heads of recognised institutions, from amongst themselves; and

(ii) two members elected by the teachers (other than Principals or Heads) of recognised institutions, from amongst themselves, who are registered practitioners possessing 3[any of the recognised medical qualifications] and are engaged in teaching 4[in the Homoeopathic system of] medicine in any recognised institution for a period of not less than two years immediately preceding the day fixed for the nomination of candidates for such election :

Provided that, the members to be elected under subclauses (i) and (ii) shall be persons other than those nominated or elected under the preceding clauses.

(2) If at any election the electors fail to elect the requisite number of members to the Council, the State Government shall nominate such registered practitioners as it deems fit, to fill the vacancies which remain unfilled after the election; and references to elected members or election of the members in this Act shall be construed as including references to members so nominated or such nomination of the members.

(3) The President and the Vice-President of the Council shall be elected by the members of the Council by ballot, from amongst themselves.]

1. Section 3A was inserted by Mah. 16 of 1988, Section 5.

2. The words "and Biochemistry" were deleted by Mah. 19 of 1988, Section 7(a).

3. These words were substituted for the words "any of the qualifications specified in the First Schedule", *ibid.*, Section 7(b)(i).

4. These words were substituted for the words "in any of the systems of Homoeopathic or Biochemic", *ibid.*, Section 7(b)(ii).

4. Time, Place And Manner Of Election Of Members President And Vice-President :-

Time, place and manner of election of members 1[President and Vice-President]

(1)2[(a)] The election of members under 3[section 3-A] shall be held at such time and at such place and in such manner as may be prescribed by rules.

2[(b) If any dispute arises regarding any election referred to in clause (a), it shall be referred for decision of the State Government, 4[within thirty days from the date of the election] and its decision shall be final.]

(2) The Registrar shall, at least three months before the date fixed

for the election of the 5[Council] cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the register and the dates when such qualifications were acquired.

6[(3)(a) Within seven days after the nomination and election of members under the foregoing provisions, a meeting shall be called for the election of the President and Vice-President on such date as the Deputy Director of Homoeopathy may fix. Such election shall be by ballot.

(b) The meeting called under clause (a) shall be presided over by the Deputy Director of Homoeopathy, and he shall have the right to vote. The Deputy Director presiding over such meeting (hereinafter referred to in this section as "the Presiding Officer") may, for reasons recorded in writing which in his opinion are sufficient, refuse to adjourn such meeting, or as the case may be, adjourn such meeting.

(c) If in the election of the President or Vice-President, there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Presiding Officer, in such manner as he may determine.

(d) In the event of a dispute arising as to the validity of the election of a President or Vice-President, the Presiding Officer may, within thirty days from the date of the election, refer the dispute to the State Government for decision. The decision of the State Government in such dispute shall be final and conclusive and shall not be questioned in any Court.

(4) The election of the President and Vice-President on any occasion other than the one referred to in sub-section (3) shall be held before the expiry of their term or soon after the occurrence of a casual vacancy in the office of the President or Vice-President and in such manner as may be prescribed by rules].

1. These words were added by Mah. 16 of 1988, Section 6(d).

2. Sub-section (1) of section 4 was renumbered as clause (a) of that subsection and clause (b) was inserted by Mah. 42 of 1975, Section 2.

3. This word, figure and letter were substituted for the word "section 3" by Mah. 16 of 1988, Section 6(a)(ii).

4. These words were inserted, *ibid.*, Section 6(a)(1).

5. This word was substituted for the word "Board", *ibid.*, Section 6(b).

6. Sub-section (3) was added, *ibid.*, Section 6(c).

5. Term Of Office :-

(1) Save as otherwise provided by this Act, the term of office of the members, whether elected or nominated, shall be for a period of five years commencing from the date on which the first meeting of the 1[Council] is held 2[under clause (a) of sub-section (3) of section 4].

(2) The term of office of an outgoing member shall be deemed to extend to and expire with the day immediately before the day of the first meeting referred to in sub-section (1).

(3) An outgoing member shall be eligible for re-election or re-nomination.

3[(4) The term of office of the President and Vice-President shall be for a period of one year from the date of their election as President or Vice-President, as the case may be :

Provided that, at no time the term of office of the President or Vice-President shall exceed the term of such President or Vice-President, as a member.]

1. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 7(a)(i).

2. These words were substituted for the words "after the election of the members under section 3", *ibid.*, Section 7(a)(ii).

3. Sub-section (4) was added, *ibid.*, Section 7(b).

6. Extension Of Period Of Council :-

Extension of period of 1[Council]

Notwithstanding anything contained in section 5, the State Government may, by a notification in the Official Gazette, extend the term of office of the members of the 1[Council] for a further period not exceeding one year in the aggregate.

1. This word was substituted for the word "Board", *ibid.*, Section 8.

7. Casual Vacancies :-

1[(1) Any casual vacancy, prior to the expiry of the term, in the office of the President or Vice-President due to death, resignation, removal, disability or disqualification of the President or Vice-President or any other reason shall be filled by election.]

(2) Any such vacancy in the office of a member of the 2[Council] nominated by the State Government shall be filled by nomination.

3[(3) Any such vacancy in the office of the member of the Council elected by the registered practitioners, or the Principals or heads,

or the teachers, of the recognised institutions, shall be filled by the State Government by nomination of a person from a panel of three registered practitioners, or the Principals or heads, or the teachers, as the case may be, by a resolution of the Council recommended by a resolution passed by a majority of all the then members of the Council:

Provided that, if the Council fails to pass such a resolution within a period of thirty days from the date of occurrence of the vacancy, the State Government may appoint any registered practitioner, or Principal or head, or teacher, as the case may be, to fill the vacancy and the practitioner, or the Principal or head or the teacher so appointed shall, for purposes of this sub-section be deemed to have been duly nominated.]

(4) Any person nominated or elected to fill a casual vacancy under this section shall, notwithstanding anything contained in section 5, hold office only so long as the person in whose place he is nominated or elected would have held office, if the vacancy had not occurred.

1. Sub-section (1) was substituted for the original, *ibid.*, Section 9(a).

2. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 9(b).

3. This sub-section was substituted for the original, *ibid.*, Section 9(c).

8. Resignation :-

1[(1) A nominated member may at any time resign his office by a notice in writing to the State Government. An elected member may at any time resign his office by a notice in writing to the President. Such resignation shall take effect from the date on which the resignation is accepted by the State Government, or the President, as the case may be.

(2) The President or the Vice-President may at any time resign his office by a notice in writing to the State Government. The resignation shall take effect from the date on which such resignation is accepted by the State Government.]

1. Section 8 was substituted for the original, *ibid.*, Section 10.

9. Disqualification And Disability :-

(1) No person, -

(a) who is an undischarged insolvent;

(b) who has been adjudged to be of unsound mind by a competent Court;
(c) whose name has been removed from the register; or
(d) who is a full time officer or servant of 1[the Council] 2[* * *].
shall be eligible to be elected or nominated or to continue to be a member.

(2) If any member, -

(a) absents himself from three consecutive ordinary meetings of the 3[Council] without such reasons as may, in the opinion of the State Government in the case of the President, 4[and the Vice-President] and in the opinion of the 3[Council] in the case of any other member, be sufficient; or

(b) becomes or is found to be subject to any of the disqualifications mentioned in sub-section (1),

the State Government shall declare his office vacant.

(3) The State Government may, on the recommendation of the 5[Council] supporting by at least two-thirds of the whole number of members, remove any member elected or nominated under this Act, if such member has been guilty of misconduct in the discharge of his duties as a member or of any disgraceful conduct or has become incapable of performing his duties as a member :

Provided that, no resolution recommending the removal of any member shall be passed by the 6[Council] unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

1. These words were substituted for the words "the Board or the Court" by Mah. 16 of 1988, Section 11(a).

2. The word "or" was deleted by Mah. 19 of 1988, Section 8.

3. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 11(b)(1).

4. These words were inserted, *ibid.*, Section 11(b)(ii).

5. This word was substituted for the word "Board", *ibid.*, Section 11(c).

6. This word was substituted for the word "Board", *ibid.*, Section 12(a).

10. Meetings Of The Council :-

Meetings of the 1[Council]

(1) The meetings of the 2[Council] shall be convened, held and conducted in such manner as may be prescribed by rules.

3[(2) The President, if present, shall preside at every meeting of

the Council. If at any meeting the President is absent, then the Vice-President, and in the absence of both, some other member elected by the members present, from amongst themselves, shall preside at such meeting.]

(3) All questions at a meeting of the 4[Council] shall be decided by the votes of the majority of the members present and voting at the meeting.

5[(4) The presiding authority at a meeting shall have and exercise a second or a casting vote in case of an equality of votes].

(5) 6[Six members of the Council including the President and Vice-President] shall form a quorum. When a quorum is required but not present, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as it may notify and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum present or not.

1. This word was substituted for the word "Board", *ibid.*, Section 12(f).

2. This word was substituted for the word "Board", *ibid.*, Section 12(a).

3. This sub-section was substituted for the original by Mah. 16 of 1988, Section 12(b).

4. This word was substituted for the word "Board", *ibid.*, Section 12(c).

5. This sub-section was substituted for the original, *ibid.*, Section 12(d).

6. These words were substituted for the words "Eight members including President", *ibid.*, Section 12(e).

11. Proceedings Of Meetings And Validity Of Acts :-

(1) The proceedings of every meeting of the 1[Council] shall be treated as confidential and no person shall, without the previous permission of the 1[Council] disclose any portion thereof :

Provided that, nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution passed or considered by the 1[Council] unless the 1[Council] directs such resolution to be treated as confidential.

(2) No disqualification of or defect in the election, nomination or appointment of any person as a member or as the President 2[or as

the Vice-President] or as a presiding authority of a meeting shall of itself be deemed to vitiate any act or proceedings of the 3[Council] in which such person has taken part, whenever the majority of persons, parties to such act or proceedings, were entitled to vote.

(3) During any vacancy in the 4[Council], the continuing members may act as if no vacancy had occurred.

1. This word was substituted for the word "Board", *ibid.*, Section 13(a).
2. These words were inserted, *ibid.*, Section 13(b)(i).
3. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 13(b)(ii).
4. This word was substituted for the word "Board", *ibid.*, Section 13(c).

12. Fees And Allowances For Meetings :-

1[There shall be paid to the President, the Vice-President and other members of the Council and to the members of the Committees, such fees and allowances for attendance at meeting, and such travelling allowances as may from time to time be prescribed by rules.]

1. Section 12 was substituted for the original, *ibid.*, Section 14.

13. Income And Expenditure Of Council :-

1[(1) The income of the Council shall consist of,-

- (a) fees received from the practitioners;
- (b) fees received from the examinees;
- (c) any other fees collected by the Council;
- (d) grants received from the State Government;
- (e) donations and any other sums received by the Council.

(2) It shall be competent for the Council to incur expenditure for the following purposes, namely :-

- (a) salaries and allowances of the Registrar and the staff including the Inspectors appointed by the Council;
- (b) fees and allowances paid to the members of the Council, its Committees;
- (c) remuneration paid to paper setters, examiners, moderators and other persons appointed by the Council for the conduct of examinations;
- (d) other expenses for the conduct of examinations;
- (e) such other expenses as are necessary for performing its duties and functions under this Act, rules made thereunder or the

regulations or by-laws made by the Council.]

1. Section 13 was substituted for the original, *ibid.*, Section 15.

14. Powers, Duties And Functions Of Council :-

1[Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties and functions of the Council shall be,-

(a) to provide for registration of practitioners and to maintain the register;

(b) to hear and decide appeals from any decision of the Registrar;

(c) to reprimand a registered practitioner, or to suspend or remove him from the register to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient;

(d) to hold examinations, to make all the necessary arrangements of such examinations and to charge fees therefor;

(e) to 2[* * *] conduct the courses of training leading to the examinations held by the Council;,,

(f) to grant degrees, diplomas and marks of honour;

(g) to award stipends, scholarships, medals, prizes and other rewards;

(h) to recommend recognition of institutions for the purpose of giving instructions for the courses leading to the examinations held by the Council, or to recommend the cancellation of such recognition;

3[(i) * * *];

(j) to prepare, publish and prescribe text books, and to publish statements 4[of courses of study prescribed by the Central Council];

(k) to provide for the maintenance of an adequate standard of proficiency for the practice of Homoeopathic 5[system of medicine];

(l) to found and maintain libraries;

(m) to recommend and promote schemes for post-graduate training and research in Homoeopathy and Biochemis-try;

(n) to provide for the inspection of recognised institutions or any other institutions giving instructions for any of 6[the recognised medical qualifications]; and to require such institutions to furnish such information as may be necessary;

(o) to appoint boards of studies and committees consisting of persons, who may or may not be members of the Council, but at least half of the number of such persons on the board or committee

shall be the practitioners whose names are entered in register, and to make regulations for the constitution, duties and functions of such boards and committees;

(p) subject to the approval of the State Government, to receive donations and to determine the conditions of acceptance of donations;

(q) to exercise such other powers and perform such other duties and functions as are laid down in this Act or may be prescribed by rules or by regulations or by-laws.]

1. Section 14 was substituted for the original by Mah. 16 of 1988, Section 16.

2. The words "prescribe and" were deleted by Mah. 19 of 1988, Section 9(a).

3. Clause (i) was deleted, *ibid.*, Section 9(b).

4. These words were substituted for the words "of prescribed courses of study", *ibid.*, Section 9(c).

5. These words were substituted for the words "and Biochemic systems of medicines", *ibid.*, Section 9(d).

6. These words were substituted for the words "the qualifications included in the First Schedule" by Mah. 19 of 1988, Section 9(e).

15. Registrar And Other Employees Of Council :-

Registrar and other employees of 1[Council]

2[(1) The State Government shall, after consulting the Council, appoint a Registrar, who shall be the Secretary and Executive Officer of the Council. The salary, allowances and other conditions of service of the Registrar shall be such as may be prescribed by rules.]

(2) The 3[Council] may, from time to time, grant leave to the Registrar :

Provided that, if the period of leave does not exceed two months the leave may be granted by the President.

(3) During any such temporary vacancy in the office of the Registrar due to leave or any other reason, the 4[Council] may with the previous sanction of the State Government appoint another person to act in his place and any person so appointed shall for the period of such appointment be deemed to be the Registrar for the purposes of this Act :

Provided that, when the period of such vacancy does not exceed two months the appointment may be made by the President, who shall forthwith report such appointment to the State Government.

5[(4) The State Government may, after consulting the Council, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him, as it may deem necessary.)

6[* * *]

(6) The 7[Council] shall from time to time prescribe by regulations the number and designation and the salaries, allowances and other conditions of service of other officers and servants as may be necessary for the purposes of carrying out its duties and functions under this Act :

Provided that, the power to make appointment of any such officer or servant shall vest in the President.

(7) The Registrar and any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

1. This word was substituted for the word "Board" by Mah. 16 of 1988, s. 17(g).

2. This sub-section was substituted, *ibid.*, Section 17(a).

3. This word was substituted for the word "Board", *ibid.*, Section 17(b).

4. This word was substituted for the word "Board", *ibid.*, Section 17(c).

5. This sub-section was substituted by Mah. 16 of 1988, Section 17(d).

6. Sub-section (5) was deleted, *ibid.*, Section 17(e).

7. This word was substituted for the word "Board", *ibid.*, Section 17(f).

15A. Executive Committee Of Council :-

Executive Committee of 2[Council]

1[(1) The 1[Council] shall, as soon as may be, constitute an Executive Committee consisting of the President, *ex officio*, and such number of other members elected by the 2[Council] from amongst its members, as may be prescribed by rules.

(2) The term of office of, the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee shall be such as may be prescribed by rules.

(3) The Executive Committee shall exercise such powers, perform such duties, and discharge such functions, of the 2[Council] as may be delegated to it by rules or entrusted to it, from time to time, by the 2[Council].

1. Section 15-A was inserted by Mah. 20 of 1962, Section 4.

2. This word was substituted for the word "Board" by Mah. 16 of

1988, Section 18.

CHAPTER 3 CHAPTER III

16. Section 16 :-

17. Section 17 :-

18. Section 18 :-

19. Section 19 :-

CHAPTER 4 REGISTRATION OF PRACTITIONERS

20. Preparation Of Register :-

(1) As soon as may be after the appointed day, the Registrar shall prepare and maintain thereafter a register of Homoeopathic 2[* * *] practitioners for the 3[State of Maharashtra] in accordance with the provisions of this Act.

4[(1A) The register shall contain the names of practitioners, whose names are, -

(i) continued on the register under sub-section (4); and

(ii) entered in the register under sub-section (3) or (5) on or after the date of commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985.]

(2) The register shall include the following particulars, namely :-

(a) the full name, nationality and residential address of the registered practitioners;

(b) the date of his admission to the register:

(c) the qualification for registration and the date on which he obtained his degree, diploma or any other like award in Homoeopathy 5[* * *] if any, and the authority which conferred or granted it;

(d) his professional address; and

(e) such further particulars as may be prescribed by rules.

(3) Every person who possesses any of the 6[recognised medical qualifications] shall, at any time on an application made in the form prescribed by rules to the Registrar and on payment of a fee of 7[three hundred rupees] be entitled to have his name entered in the register.

8[(4) The register maintained under this section and in force on the day immediately preceding the date of commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment)

Act, 1985 (hereinafter in this sub-section referred to as "the Amending Act"), shall be deemed to be the register maintained under the principal Act as amended by the Amending Act and the name of every person whose name is entered in such register shall, subject to the provisions of this Act, continue to be on the register.

(5) Notwithstanding anything contained in any law for the time being in force, every person entitled to be or is enrolled on the register maintained under the Homoeopathy Central Council Act, 1973, but not enrolled on the register maintained under this Act, shall, on an application and on payment of the fee as provided in sub-section (3), be entitled to have his name entered in the register maintained under this Act.]

(12)(a) Every registered practitioner shall be given a certificate of registration in the form prescribed by rules; 9[and shall practice 10[Homoeopathy] only. The registered practitioner shall display the certificate of registration in a conspicuous place in his dispensary, clinic or place of practice.]

11[(b) Such certificate shall be valid until it is duly cancelled and the name of the practitioner is removed from the register under the provisions of this Act; and every certificate of registration given before the commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1974, which is valid on such commencement shall, subject to the provisions of section 26, be valid likewise, and shall continue accordingly.]

12[(c) where it is shown to the satisfaction of the Registrar that a certificate of registration has been defaced, lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the form prescribed under clause (a).]

13[(13)(a) Any registered practitioner to whom a certificate of registration is issued before the day immediately preceding the date of commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, and such certificate is still in operation, may, at any time, by an application in writing, accompanied by such certificate (in original) and a fee of five rupees, apply to the Registrar for issue of a fresh certificate of registration in lieu of the certificate issued earlier.

(b) On receipt of such application, the Registrar shall cancel such certificate and issue a fresh certificate of registration in the form prescribed by rules made under clause (a) of sub-section (12).]

1. This heading was substituted for the original by Mah. 16 of 1988, Section 20.

2. The words "and Biochemic" were deleted by Mah. 19 of 1988,

Section 10(a).

3. These words were substituted for the words "State of Bombay" by Mah. 16 of 1988, Section 21(a).

4. This sub-section was substituted by Mah. 19 of 1988, Section 10(b).

5. The words "or Biochemistry" were deleted, *ibid.*, Section 10(c).

6. These words were substituted for the words "qualification specified in the First Schedule", *ibid.*, Section 10(d)(i).

7. These words were substituted for the words "one hundred rupees", *ibid.*, Section 10(d)(ii).

8. Sub-sections (4) and (5) were substituted for the original sub-sections (4) to (11) by Mah. 16 of 1988, Section 21(c).

9. This portion was inserted by Mah. 16 of 1988, Section 21(d)(i).

10. This word was substituted for the words "Homoeopathic and Biochemic Systems of Medicines" by Mah. 19 of 1988, Section 10(e).

11. Clause (b) was substituted for the original by Mah. 39 of 1974, Section 2(b).

12. This clause was added by Mah. 16 of 1988, Section 21(d)(ii).

13. Sub-section (13) was added, *ibid.*, Section 21(e).

21. Preparation Of List Of Persons In Practice On The Relevant Day :-

Deleted by Mah. 19 of 1988, Section 11.

22. Undertaking To Be Given For Entering Names In Register [* * *] :-

Notwithstanding anything contained 2[in section 20], the name of any practitioner shall not be entered in the register 3[* * *] unless he gives an undertaking in writing executed in such manner as may be prescribed by rules that he shall not use any degree, diploma, 4[licence or certificate] which is identical with or is a colourable imitation of any degree, diploma, 4[licence or certificate] granted by a body or institution authorised under the Indian Medical Degree Act, 1916, the Indian Medical Council Act, 1956, the 5[Maharashtra Medical Practitioners Act, 1961], or under any corresponding law for the time being in force in any part of the 6[State of Maharashtra]. It shall be lawful for such person to use after his name the words "Registered Homoeopathic Practitioner", 7[* * *] 8[* * *], in full to indicate that his name has been entered in the register 9[* * *] under this Act.

1. The words "or list" were deleted by Mah. 16 of 1988, Section 23(g).
2. These words and figures were substituted for the words and figures "in sections 20 and 21" by Mah. 19 of 1988, Section 12(a).
3. The words "or the list" were deleted by Mah. 16 of 1988, Section 23(a).
4. These words were substituted for the words "or licence", *ibid.*, Section 23(b).
5. These words and figures were substituted for the words and figures "the Bombay Medical Act, 1912 or the Bombay Medical Practitioners Act, 1938", *ibid.*, Section 23(c).
6. These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
7. The words "or Registered Biochemic Practitioner, as the case may be" were deleted by Mah. 19 of 1988, Section 12(b).
8. The words "Enlisted Homoeopathic Practitioner" or "Enlisted Biochemic Practitioner" were deleted by Mah. 16 of 1988, Section 23(e).
9. The words "or the list, respectively" were deleted, *ibid.*, Section 23(f).

23. Removal Of Names From Register :-

(1) (a) If a registered practitioner has been, after due inquiry held by the 1[Council] in the manner prescribed by rules, found guilty of any misconduct, the 1[Council] may,-

(i) issue a letter of warning addressed to such practitioner, or

(ii) direct the name of such practitioner -

(A) to be removed from the register for such period as may be specified in the direction, or

(B) to be removed from the register permanently.

Explanation.- For the purpose of this section, "misconduct" shall mean,-

(i) conviction of the registered practitioner by a Criminal Court for an offence which involves moral turpitude and which is cognizable within the meaning of the 2[Code of Criminal Procedure, 1973]; or

(ii) conviction under the Army Act, 1950, of the registered practitioner subject to military law for an offence which is cognizable within the meaning of the 2[Code of Criminal Procedure, 1973]; or

(iii) any conduct, which, in the opinion of the 1[Council], is

infamous in relation to the profession,

(b) The 1[Council] may, on sufficient cause being shown, direct at any time that the name of the practitioner so removed shall be re-entered in the register on such conditions and on the payment of such fees as may be prescribed by rules and on such further conditions as the 1[Council] may impose.

3[(2) If the name of any such practitioner is entered in the register maintained under the Maharashtra Medical Practitioners Act, 1961, or the Maharashtra Medical Council Act, 1965, or any other corresponding law for the time being in force in any part of the State of Maharashtra, it shall be the duty of the Council to give intimation of such removal to the authority responsible to maintain the said register.]

4[(3) If the name of the registered practitioner is also entered in the register maintained under any of the laws referred to in sub-section (2) and it is removed from the said register, the Registrar, with the approval of the Council, shall also remove his name from the register under this Act.]

(4) The 5[Council] may, on its own motion or on the application of any person, after due and proper enquiries and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, if, in the opinion of the 5[Council] such entry was fraudulently or incorrectly made.

(5) In holding inquiries under this section, the 6[Council] shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely :-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents;

(c) issuing of commissions for the examination of witnesses.

(6) All inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

(7) 7[(a) For the purpose of advising the Council or the Executive Committee on any question of law arising in any inquiry before it, there may be appointed by the Council an assessor who has been for not less than ten years -

(i) an Advocate enrolled under the Advocates Act, 1961; or

(ii) an Attorney of a High Court.]

(b) Where an Assessor advises the 8[Council or the Executive Committee] on any question of law as to evidence, procedure or

any other matter, he shall do so in the presence of every party, or person representing a party to the inquiry who appears thereat, or if the advice is tendered after the 8[Council or the Executive Committee] has begun to deliberate as to their findings, every such party or person has as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed, if in any case the 8[Council or the Executive Committee] does accept the advice of the assessor on any such question as aforesaid.

(c) Any assessor under this section may be appointed either generally or for any particular inquiry or class of inquiries and shall be paid such remuneration as may be prescribed by rules.

9[(8) * * *]

1. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 24(a)(1).

2. These words and figures were substituted for the words and figures "Code of Criminal Procedure, 1898", *ibid.*, Section 24(a)(ii).

3. Sub-section (2) was substituted, *ibid.*, Section 24(b).

4. Sub-section (3) was substituted, *ibid.*, Section 24(c).

5. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 24(d).

6. This word was substituted for the word "Board", *ibid.*, Section 24(e).

7. Clause (a) was substituted for the original, *ibid.*, Section 24(f)(i).

8. This word was substituted for the word "Board", *ibid.*, Section 24(f)(ii).

9. Sub-section (8) was deleted by Mah. 16 of 1988, Section 24(g).

24. Persons Not Entitled To Registration [* * *] :-

Persons not entitled to registration 1[* * *]

Notwithstanding anything contained 2[in section 20] no person whose name has been removed for infamous conduct in a professional respect from any register 3[* * *] kept under, -

(i) the Bombay Homoeopathic Act, 1951;

(ii) the Madhya Pradesh Homoeopathic and Biochemic Practitioners Act, 1951; or

(iii) any law for the time being in force in India or any part thereof regulating the registration of practitioners of medicine,

shall be entitled to have his name entered in the register 4[prepared under section 20] unless his name is duly restored to the register 5[* * *] from which it was removed.

1. The words "or enlistment" were deleted, *ibid.*, Section 25(c).
2. These words and figures were substituted for the words and figures "in sections 20 and 21" by Mah. 19 of 1988, Section 13(a).
3. The words "or list" were deleted by Mah. 16 of 1988, Section 25(a).
4. These words and figures were substituted for the words and figures "or the list prepared under sections 20 and 21, respectively", *ibid.*, Section 25(b).
5. The words "or the list" were deleted by Mah. 19 of 1988, Section 13(b).

25. Maintenance Of Register [* * *] :-

Maintenance of register 1[* * *]

(1) It shall be the duty of the Registrar to make entries in the register, from time to time, to revise the same and to issue the certificates of registration 2[* * *] in accordance with the provisions of this Act, the rules made thereunder and the orders of the 3[Council].

(2) The names of registered practitioners who die or whose names are directed to be removed from the register under subsection (1) of section 23 shall be removed therefrom.

(3) No alteration in the entries as respects additional qualifications or change of name of the practitioner shall be made except on payment of such fees as may be prescribed by rules.

4[(4) * * *]

1. The words "and list" were deleted by Mah. 16 of 1988, Section 26(c).

2. The words "and renewal slips" were deleted by Mah. 39 of 1974, Section 4.

3. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 26(a).

4. Sub-section (4) was deleted, *ibid.*, Section 26(b).

26. Renewal Of Registration :-

1[(1) Notwithstanding anything contained 2[in section 20], after the commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1974 (hereinafter referred to as "the Amending Act"),-

(a) (i) the Registrar shall cause two general notices in the prescribed form to be published at an interval of not less than sixty days in the Official Gazette, and in such other manner as may be

prescribed. The first such general notice shall be published on such date as the Registrar may, with the approval of the President decide, calling upon all registered practitioners and all persons whose names have been removed from the register during the process of renewal which took place under section 26 of this Act as it stood immediately before the commencement of the Amending Act (hereinafter referred to as "the defaulters") to make an application to the Registrar for the continuance of their names on the register, and drawing attention to their liability to pay to the 3[Council] a fee of one hundred rupees therefor, and in case of defaulters an additional fee of fifteen rupees by way of penalty;

(ii) the Registrar shall, after the publication of the first general notice under sub-clause (i) of his clause, send an individual notice under certificate of posting enclosing therewith the prescribed form of application to every registered practitioner and defaulter at his address as entered in the register, or as the case may be, his last known address, calling upon him to return the application to the Registrar duly filled in for the continuance of his name on the register along with a fee of one hundred rupees (and in the case of a defaulter an additional fee of fifteen rupees) within forty-five days of the receipt of such individual notice.

If any of the registered practitioners or defaulters fails to return such application within the period specified in the individual notice along with the fees aforesaid, the Registrar shall, after the publication of the second general notice under sub-clause (i), issue a further individual notice to such registered practitioner or defaulter under certificate of posting, enclosing therewith the prescribed form of application calling upon him to return the application to the Registrar for the continuance of his name on the register within thirty days from the date of the receipt of the further individual notice together with the fees aforesaid and a further additional fee of five rupees;

(iii) if the application together with the fees is returned within the period specified in such further individual notice, the Registrar shall inform the registered practitioner and the defaulter under certificate of posting, that the fees have been, received, and that the certificate of registration of the registered practitioner shall, subject to the provisions of this section, continue in operation, unless such certificate is duly cancelled under this Act. The Registrar shall give a fresh certificate of registration to the defaulter, which shall also likewise continue in operation;

(iv) if the application together with the fees is not returned within

the period specified in the further individual notice, the Registrar shall remove the name of the defaulting practitioner from the register, unless it has been removed already and inform him of such removal under certificate of posting. The fact of such removal shall be published in the Official Gazette, and in such other manner as may be prescribed. On such removal, the certificate of registration issued to the defaulting practitioner shall be deemed to have been cancelled, and shall be withdrawn from the practitioner by the Registrar in the prescribed manner :

Provided that, on an application made to the Registrar in that behalf within such period as the 4[Council] may, from time to time specify in this behalf, the name so removed or already removed may be re-entered in the register on payment of a fee of one hundred rupees together with an additional fee of fifty rupees; and thereupon, the certificate of registration, if withdrawn, shall be returned to the practitioner and shall continue in operation, and if not yet withdrawn, it shall also continue in operation, as provided in sub-clause (iii) of this clause;

(b) and thereafter every five years from the commencement of the Amending Act, the Registrar shall likewise cause two general Notices in the prescribed form to be published at an interval of not less than sixty days, in the Official Gazette, and in such other manner as may be prescribed, calling upon all registered practitioners to make an application to the Registrar for continuance of their names on the register without payment of the fee of one hundred rupees referred to in clause (a) 5[or three hundred rupees, as the case may be,] and thereupon, the provisions of clause (a) shall, mutatis mutandis apply for the continuance of the names of the registered practitioner on the register.

6[(2) * * *].

1. Section 26 was substituted for the original by Mah. 39 of 1974, Section 5.

2. These words and figures were substituted for the words and figures "in sections 20 and 21" by Mah. 19 of 1988, Section 14(a).

3. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 27(a)(1).

4. This word was substituted for the words "State Government" by Mah. 16 of 1988, Section 27(a)(ii).

5. These words were inserted by Mah. 19 of 1988, Section 14(b).

6. Sub-section (2) was deleted by Mah. 16 of 1988, Section 27(b).

27. No Refund Of Fees :-

Fees paid under sections 20, 1[* * *], 2[23], 25 and 26 shall not be refunded.

1. These figures were deleted by Mah. 19 of 1988, Section 15.
2. These figures were inserted by Mah. 16 of 1988, Section 28.

28. Right Of Registered Practitioner :-

Notwithstanding anything in any law for the time being in force, -

(i) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as a medical practitioner or member of the medical profession shall, in all Acts of the Legislature in the 1[State of Maharashtra] and in all Central Acts (in their application to the 2[State of Maharashtra]) in so far as such Acts relate to any matters specified in List II or List III in the Seventh Schedule to the Constitution of India, include a practitioner whose name is entered in the register under this Act;

(ii) a certificate required by any Act from any medical practitioner or medical officer shall be valid if such certificate has been signed by a practitioner whose name is entered in the register under this Act;

(iii) a practitioner whose name is entered in the register shall be eligible to hold any appointment as a physician or other medical officer in any Homoeopathic 3[* * *] dispensary, hospital or infirmary supported by or receiving a grant from the State Government and treating patients according to the Homoeopathic 3[* * *] system of medicine or in any public establishment, body or institution dealing with such system of medicine;

(iv) every registered practitioner shall be exempt, if he so desires, from serving on an inquest, 4[under the Code of Criminal Procedure, 1973].

1. These words were substituted for the words "State of Bombay", ibid., Section 29(a).

2. These words were substituted for the words "State of Bombay" by Mah. 16 of 1988, Section 29(a).

3. The words "or Biochemic" were deleted by Mah. 19 of 1988, Section 16.

4. These words and figures were substituted for the words and figures "or as a Juror under the Code of Criminal Procedure, 1898" by Mah. 16 of 1988, Section 29(b).

CHAPTER 5 EXAMINATIONS HELD BY THE COUNCIL AND, RECOGNITION OF INSTITUTIONS

29. Examinations Held By The Council [* * *] :-

Examinations held by the 1[Council] 2[* * *]

The 3[Council] shall, by by-laws under section 35, prescribe the examinations to be held by it. 4[* * *].

1. This word was substituted for the word "Court" by Mah. 16 of 1988, Section 31(c).
2. The words "and courses of studies" were deleted by Mah. 19 of 1988, Section 18(b)
3. This word was substituted for the word "Court" by Mah. 16 of 1988, Section 31(a).
4. This portion was deleted by Mah. 19 of 1988, Section 18(a).

30. Recognition Of Institutions :-

(1) Every institution recognised under this section shall be entitled to train students for the examinations 1[in accordance with the regulations made by the Central Council for conferring the medical qualifications in Homoeopathy recognized by the Central Council].

(2) Any institution desirous of recognition under this Act shall send an application to the Registrar giving full information in respect of the following matters, namely :-

- (a) the constitution and personnel of the managing body;
- (b) subjects and courses in which it gives or proposes to give instruction and the examination for which it seeks recognition;
- (c) accommodation, equipment and the number of students for whom provision has been or is proposed to be made;
- (d) the strength of the staff, their salaries, qualifications and the research work carried out by them;
- (e) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for continued maintenance and efficient working of the institution :

Provided that, no application shall be entertained by the Registrar unless the institution agrees in writing to give all facilities to any inspectors, members, visitors or any other persons authorised by the 2[Council] to make an inspection or enquiry or to attend any examination under sub-sections (3) to (9).

NOTIFICATIONS

No. HED. 1390/531/CR-38/90/MED-7, dated 12th March, 1990
(M.G.G., Pt. IV-B, p. 380)

In exercise of the powers conferred by sub-section (1) of section 2 of the Bombay Anatomy Act, 1949 (Bom. XI of 1949), the Government of Maharashtra hereby declares the Ahmednagar Homoeopathic Medical College, Ahmednagar as an approved institution for the purpose of sub-sections (1), (2) and (3) of section 5 of the said Act.

No. ADR. 1390/689/CR-54/90/MED-7, dated 13th March, 1990 (M.G.G., Pt. IV-B, p. 381)

In exercise of the powers conferred by sub-section (1) of section 2 of the Bombay Anatomy Act, 1949 (Bom. XI of 1949), the Government of Maharashtra hereby declares the National Homoeopathic Medical College, Nashik to be an approved institution for the purposes of sub-sections (1), (2) and (3) of section 5 of the said Act.

No. ADR. 1390/405/CR-27/90/MED-7, dated 14th March, 1990 (M.G.G., Pt. IV-B, p. 381)

In exercise of the powers conferred by sub-section (1) of section 2 of the Bombay Anatomy Act, 1949 (Bom. XI of 1949), the Government of Maharashtra hereby declares the Homoeopathic Medical College, Akola, to be an approved institution for the purposes of sub-sections (1), (2) and (3) of section 5 of the said Act.

No. ADR. 2889/1846/CR-369/MED-7, dated 21st March, 1990 (M.G.G., Pt. IV-B, p. 381)

In exercise of the powers conferred by sub-section (1) of section 2 of the Bombay Anatomy Act, 1949 (Bom. XI of 1949), the Government of Maharashtra hereby declares the Kakasaheb Mhaske, Homoeopathic Medical College, Ahmednagar, to be an approved institution for the purposes of sub-sections (1), (2) and (3) of section 5 of the said Act.

No. HMC. 1005/325/CR-54/05/EDU-2, dated 12th July, 2005 (M.G.G., Pt. IV-B, pp. 137-138)

Government vide Notification No. HED. 1389/588/CR-84/07, dated the 30th January, 1990 has declared the Satara Gymkhanas Homoeopathic Medical College, Satara, Dist. Satara as an approved institution under the Bombay Anatomy Act, 1949. Thereafter, upon having been changed the name of the said College. Notification No. HMC. 2198/312/CR-39/EDU-2, dated 7th June, 1998 was issued for substitution of its new name as,-

"Samarth Educational Trusts Homoeopathic Medical College and Samarth Hospital, A.M. 1/1, Additional M.I.D.C, Degaon Road, Satara 415 004."

2. Now, since the Government under Circular No. HMC/1004/5165/CR-668/04/EDU-2, dated 6th January, 2005, has granted permission to change the name of the said college again as Sawakar Homoeopathic Medical College, Satara. The Government directs that Sawakar Homoeopathic Medical College, Satara shall be an approved Institution under the Bombay Anatomy Act, 1949.

(3) The Registrar shall place the application before the 2[Council] and the 2[Council] may direct the Registrar to call for any further information which it may deem necessary. The 2[Council] may also direct a local inquiry to be made by a competent person or persons authorised by it in this behalf.

(4) After recording the report of such local inquiry and after making such further inquiry as may be necessary, the 2[Council] shall forward the application together with its report to the State Government with its opinion whether the recognition asked for should or should not be granted. The State Government may thereupon grant or refuse the recognition or may grant it subject to such condition as it deems fit. The decision of the State Government shall be final.

(5) It shall be the duty of the 2[Council] to secure the maintenance of an adequate standard of proficiency for the practice of the Homoeopathic 3[* * *] system of medicine 4[as prescribed by the Central Council]. For the purpose of securing such standard, the 1[Council] shall have authority to call on the governing body or authorities of any recognised institution to permit inspectors or any members or visitors appointed by the 2[Council] in this behalf to inspect the recognised institutions and the hospitals attached to them and to attend and be present at all or any of the examinations held by the institutions. Every recognised institution shall comply with any reasonable direction issued by the 2[Council] from time to time.

(6) The inspectors, members or visitors shall not interfere with the conduct of any examination but it shall be their duty to report to the 2[Council], their opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in regard to such institutions on which the 2[Council] may require them to report.

(7) Every recognised institution and every examination held by such institution shall be inspected by the 2[Council] through its inspectors or members or visitors at least once in five years and more frequently if the 2[Council] so desires.

(8) The 2[Council] shall forward a copy of every such report to the

authorities of the institution in respect of which the said report was made and shall also forward a copy of such report, together with any observations thereon made by the said body, to the State Government 5[and the Central Council].

(9) An inspector, a member or a visitor shall receive such remuneration to be paid as part of the expenses of the 2[Council], as may be prescribed by bye-laws under section 35.

6[(10) The provisions of this section shall be in addition to, and not in derogation of, the relevant provisions in this behalf in the Homoeopathy Central Council Act, 1973.]

1. These words were substituted for the words "of the Council for which it is recognised", *ibid.*, Section 19(a).

2. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 32.

3. The words "or the Biochemlc" were deleted by Mah. 19 of 1988, Section 19(b)(i).

4. These words were inserted, *ibid.*, Section 19(b)(ii).

5. These words were added by Mah. 19 of 1988, Section 19(c).

6. This sub-section was added, *ibid.*, Section 19(d).

31. Withdrawal Or Recognition Of Institutions :-

If it appears to the State Government on the report of the 1[Council or Central Council] that any institution recognised under section 30 is not maintaining an adequate standard of training according to the requirements of the 2[Central Council], the State Government may at any time withdraw the recognition granted to such institution :

Provided that, before any direction for the withdrawal of the recognition is made under this section, the institution shall be given a reasonable opportunity and time to come up to the required standard by the 3[Council] if a report has been made by the 3[Council] and in any other case by the State Government.

1. These words were substituted for the words "Council or otherwise", *ibid.* Section 20(a).

2 . These words were substituted for the word "Council", *ibid.*, Section 20(b).

3. This word was substituted for the word "Court" by Mah. 16 of 1988, Section 33.

32. Amendment Of First Schedule :-

Deleted by Mah. 19 of 1988, Section 21.

CHAPTER 6 MISCELLANEOUS

33. Rules :-

(1) The State Government may by notification in the Official Gazette and subject to the condition of previous publication make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :-

(a) the time and place at which and manner in which 1[election of the members, President and Vice-President of the Council shall be held under section 4];

2[(b) the manner in which the meetings of the Council shall be convened, held and conducted under subsection (1) of section 10;]

3[(c) the fees and other allowances to be paid under section 12 4[* * *];

5[(d) the other powers, duties and functions of the Council, under clause (q) of section 14;]

(e) the salary, allowances and other conditions of service of the Registrar under section 15;

6[(ea) the number and term of office of, the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committees; and the powers, duties and functions of 7[the Council delegated to the Executive Committee, under section 15A;]

8[(ff) * * *]

(g) the particulars to be entered in the register under clause (e) of sub-section (2) of section 20;

9[(h) * * *];

10[(i) the forms of application for registration and the documents to accompany such forms, under section 20;]

(j) the manner of making enquiry under sub-section (9) of section 20; 11[* * *];

12[(k) the forms of certificate of registration, under subsection (12) of section 20; 13[* * *];

(ka) the fees chargeable, and the form of application, for the issue of duplicate certificate of registration under clause (c) of sub-section (12) of section 20;]

(l) the manner in which the undertaking shall be executed under section 22;

(m) the manner of holding inquiries under section 23, the

conditions and fees for re-entering the name of a practitioner removed under that section, and the remuneration to be paid to the assessors appointed under that section;

(n) the fees chargeable for the alteration of entries as respects additional qualifications or change of name under sub-section (3) of section 25;

14[(o) * * *;]

14[(p) * * *;]

(q) any other matter which is to be or may be prescribed under this Act;

(r) the furtherance of any of the objects of this Act.

15[(3) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following, and publish in the Official Gazette.]

1. This portion was substituted for the words and figures "election to the Board and to the Court shall be held under section 4 and section 17 read with section 4" by Mah. 16 of 1988, Section 35(a).

2. This clause was substituted for the original, *ibid.*, Section 35(b).

3. Clause (c) was substituted by Mah. 31 of 1963, Section 6.

4. The words and figures "and under section 17 read with section 12" were deleted by Mah. 16 of 1988, Section 35(c).

5. Clause (d) was substituted, *ibid.*, Section 35(d).

6. Clause (ea) was inserted by Mah. 20 of 1962, Section 7(a)(ii).

7. This portion was substituted by Mah. 16 of 1988, Section 35(e).

8. Clause (f) was deleted, *ibid.*, Section 35(f).

9. Clause (h) was deleted, *ibid.*, Section 35(g).

10. Clause (i) was substituted, *ibid.*, Section 35(h).

11. The words, brackets and figures "and sub-section (9) of section 21" were deleted by Mah. 16 of 1988, Section 35(1).

12. Clause (k) and (ka) was substituted for the original clause (k), *ibid.*, Section 35(J).

13. The words, brackets and figures "and sub-section (3) of section 21" were deleted by Mah. 19 of 1988, Section 22.

14. Clauses (o) and (p) were deleted by Mah. 39 of 1974, Section 6.

15. Sub-section (3) was inserted by Mah. 20 of 1962, Section 7(6).

34. Regulations :-

(1) The 1[Council] may, with the previous sanction of the State Government, make regulations not inconsistent with this Act or the rules made thereunder, for the following matters, namely :-

(a) the number and designations, salaries, allowances and other conditions of service of its officers and servants other than the Registrar under sub-section (6) of section 15;

(b) such matters as may be necessary for the exercise of the powers and performance of duties and functions by the 1[Council] under this Act.

(2) The State Government on receiving the draft regulations may sanction or refuse to sanction the same or sanction them subject to such modifications as it may think fit or return them to the 1[Council] for further consideration.

(3) All regulations, when sanctioned, shall be published in the Official Gazette.

(4) The State Government may by notification in the Official Gazette cancel any regulation.

1. This word was substituted for the word "Board" by Mah. 16 of 1988, Section 36.

35. By-Laws :-

(1) The 1[Council] may, with the previous sanction of the State Government, make by-laws, not inconsistent with provisions of this Act or the rules made thereunder, for the following matters namely :-

(a) the examinations to be held by it;

2[(b) * * *;]

2[(c) * * *;]

(d) the degree, diploma, certificate or any other like award to be conferred upon those who pass the examinations, and the manner of conferring such degree, diploma, certificate or award;

(e) the language in which the examinations shall be conducted;

3[(f) the fees to be paid to the examiners, paper-setters, moderators and other persons appointed, and the fees to be charged, for the conduct of examinations;]

4[(g) * * *];

(h) the number of students to be admitted to the recognised institutions;

(i) the language in which instructions shall be given in the recognised institutions;

(j) the remuneration to be paid to an inspector or a member or a

visitor;

(k) the number and designations, salaries, allowances and other conditions of service of its officers and servants including the inspectors;

(l) such other matters as may be necessary for the exercise of the powers and performance of duties and functions by the 5[Council] under this Act.

(2) The State Government on receiving the draft by-laws may sanction or refuse to sanction the same or sanction them subject to such modifications as it may think fit or return them to the 5[Council] for further consideration.

(3) All by-laws, when sanctioned, shall be published in the Official Gazette.

(4) The State Government may by notification in the Official Gazette cancel any by-law.

1. This word was substituted for the word "Court", *ibid.*, Section 37.

2. Clause (b) and (c) were deleted by Mah. 19 of 1988, Section 23(a).

3. Clause (f) was substituted, *ibid.*, Section 23(b).

4. Clause (g) was deleted, *ibid.*, Section 23(c).

5. This word was substituted for the word "Court" by Mah. 16 of 1988, Section 37.

36. Control Of State Government :-

(1) If at any time it appears to the State Government that the 1[Council] has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties conferred upon it, by or under this Act, or has otherwise ceased to function or has become incapable of functioning, the State Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the 1[Council] as the case may be, and if the 1[Council] fails to remedy such failure, excess or abuse within such time as the State Government may fix in this behalf, the State Government may dissolve the 1[Council] and cause all or any of the powers or duties of the 1[Council] to be exercised and performed by such person and 2[for such period not exceeding two years as it may think fit, which period may, if the State Government thinks fit be extended by it, from time to time, so, however, that the total period does not exceed 3[seven years] in the aggregate, and the

State Government] shall take steps to constitute a 4[new Council] :
5[Provided that, the term of office of the person so appointed and holding office on the commencement of the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment) Act, 1988 shall be deemed to extend or to expire with the date immediately preceding the date of the first meeting of the Council constituted after such commencement.]

(2) Notwithstanding anything contained in this Act, rules, regulations or by-laws if at any time it shall appear to the State Government that the 6[Council] or any other authority empowered to exercise any of the powers or to perform any of the functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers or functions to be exercised or performed by such person in such manner and for such period not exceeding six months and subject to such conditions as it thinks fit.

7[(3) The Administrator shall be paid from the fund of the Council such salary and allowances as the State Government may from time to time determine.]

1. This word was substituted by the words "Board or the Court" and the words "Board or the Court, as the case may be," *ibid.*, Section 38(a)(i).

2. These words were substituted for the words "for such period not exceeding two years, as it may think fit and" by Mah. 24 of 1975, Section 2.

3. These words were substituted for the words "six and half years" by Mah. 17 of 1988, Section 2.

4. These words were substituted for the words "new Board or Court, as the case may be" by Mah. 16 of 1988, Section 38(a)(ii).

5. Proviso was added by Mah. 19 of 1988, Section 24.

6. This word was substituted for the words "Board or the Court" by Mah. 16 of 1988, Section 38(b).

7. Sub-section (3) was added, *ibid.*, Section 38(c).

37. Indemnity To Persons Acting Under The Act :-

No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is, in good faith done or intended to be done under this Act or under the rules or regulations or bye-laws made thereunder.

CHAPTER 7 REPEAL AND TRANSITIONAL PROVISIONS

38. Repeal And Saving :-

(1) Subject to the provisions of this Chapter, on the appointed day,
-

(a) the Bombay Homoeopathic Act, 1951, in its application to the pre-Reorganisation State of Bombay, excluding the transferred territories; and

(b) the Madhya Pradesh Homoeopathic and Biochemic Practitioners Act, 1951, in its application to the Vidarbha region of the State of Bombay shall be repealed.

(2) With effect from the appointed day, the Medical Act in its application to the Hyderabad area of the State of Bombay, shall cease to apply to the Homoeopathic practitioners.

(3) 1[* * *]. The regulations made under clauses (c) to (e) of sub-section (1) of section 38 of the Bombay Homoeopathic Act, 1951 and clauses (d) to (h) of sub-section (1) of section 29 of the Madhya Pradesh Homoeopathic and Biochemic Practitioners Act, 1951, and such other regulations and such of the rules made under the said Acts as the State Government may by order specify on the appointed day, shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made under and for the purposes of the relevant provisions of this Act and be in force accordingly, unless and until superseded by any rules, regulations or bylaws made under this Act. All other regulations and rules made under the said Act shall cease to be in force.

2[(4) * * *;]

(5) Any appointment, notification, notice, order or form made, issued or given under the Bombay Homoeopathic Act, 1951 and in force in the pre-reorganisation State of Bombay, excluding the transferred territories, immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act be deemed to have been made, issued or given under the relevant provisions of this Act and be in force throughout the State of Bombay accordingly, unless and until superseded by any appointment, notification, notice, order or form made, issued or given under this Act.

1. The words, brackets and figures "subject to the provisions of sub-section (2) of section 42" were deleted by Mah. 19 of 1988, Section 25(a).

2. Sub-section (4) was deleted, *ibid.*, Section 25(b).

39. Vesting Of Rights, Duties, Etc., In Council And Saving :-

1[On and with effect from the date of establishment of the Maharashtra Council of Homoeopathy 2[* * *] under clause (a) of sub-section (1) of section 3 (hereinafter in this section referred to as "the said date"), the following consequences shall ensue, that is to say,-

(a) the Board of Homoeopathic and Biochemic Systems of Medicines, Bombay, and the Court of Examiners of Homoeopathic and Biochemic Systems of Medicines, Bombay, which stood dissolved (hereinafter in this section referred to as "the dissolved Board and Court") and all the powers and duties of which were being exercised or performed by a person appointed under section 36 (hereinafter referred to as "the said person") on the day immediately preceding the date of the commencement of the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, shall stand permanently dissolved on the said date; and all the rights of the dissolved Board and Court shall, on the said date, vest in the Council;

(b) all the property movable or immovable which on the day immediately preceding the said date vested in the dissolved Board and Court shall, subject to all limitations and conditions as were in force on that day, vest in the Council;

(c) all sums due to the dissolved Board and Court on any account shall be recoverable by the Council, which shall be competent to take any measure or institute any proceedings which it would have been open to the dissolved Board and Court or the said person to take or institute before the said date;

(d) all debts, liabilities and obligations incurred by or on behalf of the dissolved Board and Court or the said person, immediately before the said date and subsisting on the said date, shall be deemed to have been incurred by the Council in exercise of the powers conferred on it by or under this Act and shall continue in operation accordingly;

(e) all proceedings and matters pending before any authority or officer immediately before the said date shall be deemed to be transferred to and continued before the corresponding authority or officer under this Act as amended by the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, competent to entertain such proceedings and matters;

(f) all prosecutions instituted by or on behalf of or against the dissolved Board and Court or the said person and all suits and other legal proceedings instituted by or against the dissolved Board and

Court or the said person or any officer or any such dissolved Board and Court on behalf of the dissolved Board and Court or of the said person pending on the said date, shall be continued by or against the Council;

(g) the Registrar and all officers and servants in the employment of the dissolved Board and Court immediately before the said date, shall be the Registrar, officers and servants employed by the Council and shall receive salaries and allowances and be subject to the conditions of service or retirement benefits which they were entitled to or subject to on the said date :

Provided that,-

(i) the service rendered by such Registrar, officers and servants before the said date shall be deemed to be service rendered under the Council;

(ii) if, in the opinion of the Council, the services of any officer or servant are not necessary as being surplus or are not suitable to the requirements of services under it, it may with the previous approval of the State Government, discontinue the services of any such officer or servant, and such officer or servant whose services are so discontinued, shall be entitled to receive from the Council such leave, pension, gratuity or other benefits as he would have, if the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, 3[and the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment) Act, 1988] had not been enacted, been entitled to receive on being invalidated out of service of the dissolved Board and Court and may receive such additional amount by way of compensation as the Council may, with the sanction of the State Government, determine;

(h) any appointment, notification, notice, order, rule, bylaw, register, registration certificate, recognition or form held, made, issued, maintained or granted under this Act and subsisting and in force immediately before the said date shall, in so far as it is not inconsistent with the provisions of this Act as amended by the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985, 4[and the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment) Act, 1988], continue to be in force, until superseded by any appointment, notification, notice, order, rule, by-law, register, registration certificate, recognition or form held, made, issued, maintained or granted under this Act as amended by the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985] 4[and the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment)

Act, 1988].

1. Section 39 was substituted for the original, by Mah. 16 of 1988, Section 39.
2. The words "and Biochemistry" were deleted by Mah. 19 of 1988, Section 26(a).
3. These words, brackets and figures were inserted by Mah. 19 of 1988, Section 26(b).
4. These words, brackets and figures were inserted by Mah. 19 of 1988, Section 26(c).

40. Dissolution Of Court And Appointment Of New Court :-

Deleted by Mah. 16 of 1988, Section 40.

41. Provision Regarding Registrars :-

Deleted by Mah. 16 of 1988, Section 40.

42. Provision Regarding Examinations :-

Deleted by Mah. 16 of 1988, Section 40.

43. Provisions Regarding Recognised Institution :-

Deleted by Mah. 16 of 1988, Section 40.

44. Vesting Of Rights, Duties, Etc. :-

Deleted by Mah. 16 of 1988, Section 40.

45. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, 1[as amended by the Bombay Homoeopathic and Biochemic Practitioners (Amendment) Act, 1985] 2[or the Bombay Homoeopathic and Biochemic Practitioners (Second Amendment) Act, 1988] during the period of one year from the date of commencement of the said 3[Amendment Acts] the State Government may as occasion requires by order do anything which appears to it necessary or expedient for the purpose of removing the difficulty.

1. These words, brackets and figures were inserted by Mah. 16 of 1988, Section 41.
2. These words, brackets and figures were inserted by Mah. 19 of 1988, Section 27(a).

3. These words were substituted for the words "Amendment Act" by Mah. 19 of 1988, Section 27(b).

46. Amendment Of Certain Enactments :-

1[The enactments mentioned in column 2 of the Second Schedule shall be amended in the manner, and to the extent, specified in column 3 of the said Schedule.]

1. Section 46 was substituted for the original by Mah. 16 of 1988, Section 42.

SCHEDULE 1

FIRST SCHEDULE

[Deleted by Mah. 19 of 1988, Section 28]

SCHEDULE 2

SECOND SCHEDULE

(See section 46)

Number and year of the Act	Short title of the Act	Amendments
(1)	(2)	(3)
Mah. XXVIII of 1961.	The Maharashtra Medical Practitioners Act, 1961.	1. In section 20,- (a) in sub-section (2), in clause (b), the words "or list" and the v/ords "or the said list" shall be deleted;
		(b) in sub-section (3), the words "or the list, as the case may be", and the words "or the said list" shall be deleted.
		2. In section 33, in subsection (1), in clause (ii), the words "or the list" shall be deleted.
		3. In section 33A, in subsection (1), for the words "that section" the word and figures "section 33" shall be substituted.
		4. In section 35, in subsection (1), in clause (d), for the words "Court of Examiners" the word "Council" shall be substituted
Mah. XLVI of 1965.	The Maharashtra Medical Council Act, 1965.	In section 22,- (a) in sub-section (1), in the Explanation, for the words and figures "Code of Criminal Procedure, 1898", in both the places where they occur, the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

		(b) in sub-section (2),-
		(i) in clause (a), the words "or the list" shall be deleted;
		(ii) in clause (b), the words "or the list" shall be deleted;
		(iii) the words "or the said list" shall be deleted;
		(c) in sub-section (3), the words "or the list, as the case may be," and the words "or the said list" shall be deleted.]

NOTIFICATIONS

G. N., U. D. & P. H. D., No. BHP. 1076/1329 (459)-PH-10,
dated 5th June, 1976

(M. G., Pt. IV-B, p. 736)

Amended by G. N., U. D. & P. H. D., No. BHP. 1075/24755-PH-10, dated the 3rd September, 1977 (M. G., Pt. IV-B, p. 776).

In exercise of the powers conferred by sub-section (1) read with subsection (2) of section 3 of the Bombay Homoeopathic and Biochemic Practitioners Act, 1959 (Bom. XII of 1960), the Government of Maharashtra hereby constitutes the Board of Homoeopathic and Biochemic Systems of Medicine, Bombay, as follows, namely :-

G. N., U. D. & P. H. D., No. BHP. 1375/1341/PH-7, dated 26th April, 1977 (M. G., Pt. IV-B, p. 386)

Whereas, it appears to the Government of Maharashtra that the courses of study and examinations prescribed by certain institutions conferring awards are entered in the First Schedule to the Bombay Homoeopathic and Biochemic Practitioners Act, 1959 (Bom. XII of 1960) (hereinafter referred to as "the said Act"), are such as to secure the possession by persons obtaining such awards of the requisite knowledge and skill for the efficient practice of the Homoeopathic or the Biochemic System of Medicine;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 32 of the said Act, and of all other powers enabling it in that behalf the Government of Maharashtra hereby directs the medical qualifications granted by the Universities Boards and other Medical Institutions in India as outside included in the Second and Third Schedules to the Homoeopathy Central Council Act, 1973 (59 of 1973), be included in the First Schedule to the said Act; and for the purpose amends that Schedule as follows, namely :-

In the First Schedule to the said Act, after entry 9, the following entry shall be added, namely :-

"10. All qualifications included, from time to time in the Second and Third Schedules to the Homoeopathy Central Council Act, 1973 (59 of 1973), but not included in any of the above entries in this Schedule".

G. N., U. D. & P. H. D., No. BHP. 1059(d) - Unification,
dated 26th October, 1961

(M. G., Pt. IV-B, p. 1019)

In exercise of the powers conferred by sub-section (3) of section 38 of the Bombay Homoeopathic and Biochemic Practitioners Act, 1959 (Bom. XII of 1960), the Government of Maharashtra hereby specifies -

(a) the Bombay Homoeopathic Court of Examiners Rules, 1952 (excluding rules 3, 4, 5, 14 and 15),

(b) the Bombay Homoeopathic Rules, 1956 [excluding rules 3 to 14 (both inclusive) and rules 30 and 31], and

(c) regulations made under sub-section (1) of section 38 of the Bombay Homoeopathic Act, 1951 (Bom. XLVIII of 1951) and published in Government

Notification, Local Self-Government and Public Health Department, No. BHP. 1157-H, dated the 8th December, 1958 (excluding regulations 9 and 10 thereof), for the purposes of subsection (3) of the said section 38.

1. Second Schedule was substituted for the original by Mah. 16 of 1988, Section 44.