Background

The Bill is designed to update provisions relating to the registration of medical practitioners by the Medical Council. The Bill is consistent with the commitment in the Health Strategy Quality and Fairness — a Health System for You to strengthen and expand provisions for the statutory registration of health professionals, including doctors.

The existing Medical Practitioners Act 1978 provided for the establishment of the Medical Council and the regulation of the medical profession. The need for doctors to continually keep abreast of new developments, the rights of patients to be kept informed, and the expectations of the public have all greatly increased since the 1978 Act was passed. The balance between self-regulation and public accountability needs to be adjusted to reflect these requirements and to provide a legislative framework which supports the Medical Council in the efficient and effective discharge of its functions. The recent Lourdes Hospital Inquiry Report has also informed preparation of the Bill.

Purpose of Bill

The main objective of the Bill is to provide for a modern, efficient, transparent and accountable system for the regulation of the medical profession which will satisfy the public and the profession that all medical practitioners are appropriately qualified and competent to practise in a safe manner on an ongoing basis.

Principal Elements of the Bill

The main elements of the Bill are as follows:

- A comprehensive updating of legislation regulating medical practitioners.

- An explicit definition of the role of the Medical Council as being the competent authority to protect the public interest.

- A significantly increased “lay” membership of the Council. A majority of persons on the Council will not be nominated or elected by the medical profession and a majority of persons on
the Fitness to Practise Committee will not be medical practitioners.

- A new obligation on the Council to adhere to governance arrangements applicable to other statutory bodies in the Health Service.

- Accelerated investigation mechanisms including the setting up of an assessment committee prior to fitness to practise investigations and the appointment of investigators to facilitate such preliminary investigations.

- Streamlined registration processes for medical practitioners generally.

- Prohibition on unregistered medical practitioners engaging in the practice of medicine.

- A new statutory framework for the maintenance of professional standards of registered medical practitioners.

- An obligation on the Health Service Executive and other employers to facilitate the maintenance of professional competence of medical practitioners (e.g. clinical audit, continuing medical education, peer review).

- Fitness to practise inquiries will generally be held in public. The Fitness to Practise Committee may decide, on application by the medical practitioner or a witness, including the complainant, to hold some or all of an inquiry in private, depending on the circumstances.

- Streamlining of the functions of the Postgraduate Medical & Dental Board into the Health Service Executive and the Medical Council, as appropriate, in accordance with the Government decision arising from the report Audit of Structures and Functions in the Health System 2003 (the Prospectus Report).


**Provisions of Bill**

**PART 1 — PRELIMINARY AND GENERAL**

Section 1 provides for the short title and commencement of the Act on the making of an order or orders by the Minister setting the day or days on which the provisions of the Act will come into operation.

Section 2 defines certain words and terms used in the Bill.

Section 3 provides for the repeal of the Acts listed in Part 1 of
PART 2 — CONTINUANCE IN BEING OF COUNCIL AND OBJECT AND FUNCTIONS OF COUNCIL, ETC.

Section 4 provides for the continuance in being of the Medical Council and includes savings provisions for matters which have been commenced by the Medical Council under the 1978 Act but not completed at the time of its repeal. This section also provides for the Council to regulate its own function, subject to the provisions of Schedule 2.

Section 5 provides for the Council, to have a corporate seal of which judicial notice may be taken.

Section 6 sets out the object of the Council, which is:

— to protect the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among registered medical practitioners.

Section 7 outlines the functions of the Council which relate to the registration of medical practitioners, the regulation of their education and training at all levels and matters relating to the recognition of qualifications of medical practitioners.

The Council’s functions also include the setting of standards of practice (including advertising) and ethical guidance for medical practitioners, the handling of complaints and inquiries relating to the conduct of medical practitioners and proactively advising the public on all matters of general interest relating to the functions of the Council, its area of expertise and the practice of medicine.

The section includes provisions requiring the Council to have regard to the role of other bodies and authorities, the need to ensure effective and efficient use of resources and policies of the Minister or Government which relate to its functions. It provides for the Minister to require the Council to give information to the Minister relating to the performance of its functions.

Section 8 provides that the Minister may confer additional functions on the Council by order and that an order made must be laid before the Houses of the Oireachtas.

Section 9 provides for the Minister to give general policy directions to the Council in relation to its functions, excluding matters relating to ethical guidance, complaints, inquiries and sanctions.

Section 10 provides for protection from civil liability of Council members and staff, former members and former staff and persons appointed to assist the Preliminary Proceedings Committee.

Section 11 outlines the Council’s power to make rules and details a range of matters for which the Council may make such rules, including registration, the operation of committees, the setting of standards and criteria in relation to medical education and training and professional competence and the giving of evidence before a fitness to practise committee.

Rules will be subject to publication in draft form and to Ministerial
approval. The Minister for Finance must give consent for any rules relating to a professional competence scheme. Rules must be laid before the Houses of the Oireachtas.

Section 12 provides for the Council to prepare and publish guidelines on the manner in which the Council proposes to perform its functions.

PART 3 — STATEMENT OF STRATEGY, BUSINESS PLAN AND ANNUAL REPORT OF COUNCIL

Section 13 provides for the Council to prepare a statement of strategy for its term of office, and to subsequently amend the statement if required and to submit it to the Minister who may return it if it does not comply with specified matters.

Section 14 provides for the laying of the statement of strategy before the Oireachtas within 21 days after receipt by the Minister. The Council will be required to submit progress reports to the Minister on the implementation of the strategy.

Section 15 provides for the Council to prepare an annual business plan and the matters to be included in that plan. Similar provisions to Sections 13 and 14 relating to return of the business plan, amendment and laying before the Oireachtas also apply.

Section 16 provides for the Council to publish an annual report on its activities and for the laying of the report before the Oireachtas.

PART 4 — MEMBERS, COMMITTEES AND STAFF OF COUNCIL

Section 17 outlines the membership of the Council. The Council shall consist of 25 members appointed by the Minister as follows:

1. 2 persons jointly nominated by the bodies approved under section 88(2)(a)(i)(II) to deliver programmes of basic medical education and training,

2. one registered medical practitioner nominated by the Royal College of Physicians of Ireland in relation to medical specialties,

3. one registered medical practitioner nominated by the Royal College of Surgeons in relation to surgical specialties,

4. one registered medical practitioner nominated by the Irish College of General Practitioners in relation to general practice,

5. one registered medical practitioner nominated by the Irish Psychiatric Training Committee in relation to psychiatry,

6. 6 registered medical practitioners practising medicine in the State (but excluding any visiting EEA practitioner) following their election, in accordance with regulations made under section 18, by registered medical practitioners,

7. one person nominated by the Royal Irish Academy who is not and never has been a medical practitioner in the State or in another jurisdiction,
(8) 2 persons nominated by the Health Service Executive who are representative of the management of the public health sector,

(9) one person nominated by the Minister for Education and Science, after consultation with the Higher Education Authority, who is not and never has been a medical practitioner in the State or in another jurisdiction,

(10) one person nominated by An Bord Altranais whose name is entered in the register of nurses and midwives maintained under the Nurses Act 1985,

(11) one person nominated by the Health and Social Care Professionals Council whose name is entered in a register established under the Health and Social Care Professionals Act 2005,

(12) one person nominated by the Health Information and Quality Authority who is not and never has been a medical practitioner in the State or in another jurisdiction,

(13) one person nominated by the Independent Hospitals Association of Ireland who is not and never has been a medical practitioner in the State or in another jurisdiction, and

(14) 5 persons who—

(a) are not and never have been medical practitioners in the State or in another jurisdiction, and

(b) have such qualifications, expertise, interests or experience as, in the opinion of the Minister, would enable them to make a contribution to the performance of the Council’s functions.

Section 18 provides for the Minister to make regulations governing procedures for electing members of the Council under section 17(8). It provides for the regulations to be laid before the Houses of the Oireachtas.

Section 19 provides for the chief executive officer to give notice of the time and place of the first meeting of the Council under the Act.

Section 20 outlines the Council’s power to establish committees to perform any of its functions and provides that persons who are not members of the Council may be included in the membership of committees.

Two committees relating to Fitness to Practise matters are required — a Preliminary Proceedings Committee to give initial consideration to complaints and a Fitness to Practise Committee to conduct inquiries. At least one third of the members of these Committees must be members of the Council. In addition, an Education and Training Committee is provided for to perform functions under Part 10. A Health Committee, as a support for medical practitioners, is also provided for.

In general, committees shall have a majority of persons who are medical practitioners in their membership, except the Fitness to Practise Committee, which must have a majority of persons who are not medical practitioners.
Section 21 provides for the payment of approved travel and subsistence expenses to members of the Council or a committee.

Section 22 provides that the Council may, with consent of the Minister and the Minister for Finance, pay an approved allowance to the President of the Council, the members of the Council or the members of committees out of funds at the disposal of the Council.

Section 23 provides for circumstances in which one or all of the members of Council may be removed or may cease to hold office. The Minister may remove a member of the Council from office in specified circumstances or for membership to automatically cease in circumstances relating to indictable offences, bankruptcy or removal from registration by a competent authority. It also provides for membership to cease where a person does not attend the required number of meetings.

The section also provides for the circumstances in which the Minister may remove all of the members of Council from office, including where the Minister considers that the Council is not performing its functions in an effective manner. In these circumstances, the Minister may appoint a person to conduct an independent review of the matter and to submit a report to the Minister on the results of the review.

Section 24 provides for the appointment of a chief executive officer to carry on and manage the administration and business of the Council. The terms and conditions of office are to be determined by the Council with the prior approval of the Minister given with the consent of the Minister for Finance. The section provides for the Registrar of the Council under the 1978 Act to be the first CEO of the Council under this Act.

Section 25 provides for the appointment of the staff of the Council. Similar provisions to Section 24 relating to Ministerial approval and consent, terms and conditions and preservation of the employment rights of the persons employed by the Council under the 1978 Act are included.

Section 26 provides for the age of retirement of staff of the Council which shall be 65 years, unless the person is a new entrant within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004. It provides that the Minister may, by order, increase the age limit from 65 years.

Section 27 provides for the superannuation arrangements for staff members of the Council under the Local Government (Superannuation) Act 1980.

Section 28 provides for members of the staff of the Council to stand seconded from employment with the Council where he or she becomes a member of either House of the Oireachtas, and precludes members of the Oireachtas from becoming a member of the staff of the Council.

Section 29 provides for the provisions of section 28 to apply where a person becomes a member of a local authority or the European Parliament.

Section 30 provides for the disclosure of a material interest in a matter which arises at a Council or committee meeting by a member of the Council or committee, as appropriate. It provides for the procedures to be followed in such circumstances and for the removal
of a member from office where he or she fails to comply with the provisions relating to disclosure.

Section 31 provides for the disclosure of interests by members of staff of the Council.

PART 5 — ACCOUNTS AND FINANCES OF COUNCIL

Section 32 provides for the Council to keep proper account of its expenditure and income, property, assets and liabilities. The accounts of the Council are to be audited by the Comptroller and Auditor General, subject to the C&AG not questioning the policy objectives of the Council or the need for or the conduct of an inquiry. The Council must present the audited accounts to the Minister, arrange for them to be laid before the Houses of the Oireachtas and arrange for them to be printed and published.

Section 33 provides for the power of the Council to borrow for current or capital purposes.

Section 34 provides that the Council may accept gifts of money, land or other property, providing any conditions specified by the donor are not inconsistent with the Council’s functions.

Section 35 provides that the expenses incurred by the Council shall be defrayed out of funds at its disposal and that the expenses of the Minister in the administration of the Act shall be paid out of moneys provided by the Oireachtas, with the approval of the Minister for Finance.

The section provides that the Minister may, with the consent of the Minister for Finance, arrange for the provision of financial assistance to the Council in relation to its functions under Part II (Maintenance of Professional Competence), or for other specified functions, out of moneys provided by the Oireachtas for that purpose.

Any surplus of funds at the Council’s disposal may be allocated to education, research or public purposes connected with the medical profession.

Section 36 provides for the fees which the Council may charge. Registration fees may be charged for initial registration, retention of registration, restoration of registration following removal or cancellation, registration of additional qualifications and registration certificates. The Council may charge fees to bodies approved for the purposes of medical education and training, subject to Ministerial consent, for licences to practise anatomy under section 106 and for any other service which the Council may provide from time to time. Registration fees are not payable by visiting EEA medical practitioners.

PART 6 — REGISTRATION OF MEDICAL PRACTITIONERS

Section 37 provides that unregistered medical practitioners may not practise medicine or advertise the practitioner’s services as a medical practitioner.

Section 38 provides clarity on the provisions of section 37 in relation to medical practitioners who may also be registered under the provisions of a different Act, including dentists, nurses and midwives, pharmacists and health and social care professionals. It also
covers emergency situations where first aid is provided or where the person is a visiting EEA medical practitioner under the terms of section 50.

Section 39 provides that the Minister may, after consulting with the Council, make regulations to designate titles which may only be used by registered medical practitioners or certain specified classes of registered medical practitioners. Any such action shall be subject to prior consultation with interested persons, organisations or bodies and must be in the public interest. Regulations made under this section must be laid before the Houses of Oireachtas for approval.

Section 40 provides that only persons entitled to use designated titles may do so.

Section 41 outlines offences and penalties relating to registration, including contravention of sections 37(a) or (b) relating to the practice of medicine or advertising when not registered, or section 40(2) relating to the unauthorised use of a designated title. It will be an offence to falsely represent oneself as a registered medical practitioner or falsely represent oneself as registered in a particular division of the register or to make a false declaration for the purpose of obtaining registration.

Penalties for summary convictions are a maximum of €5,000 and/or 6 months imprisonment. Convictions on indictment are, for a first offence, a maximum fine of €130,000 and/or 5 years imprisonment. For a subsequent offence, a maximum of €320,000 and/or 10 years imprisonment. Provisions for the award of costs are included.

Section 42 prohibits the charging or recovery of fees for medical services provided while a medical practitioner was unregistered.

Section 43 establishes the register of medical practitioners, to include the names and qualifications of registered medical practitioners and to consist of four divisions — the General Division, the Specialist Division, the Trainee Specialist Division and the Visiting EEA Practitioners Division. The Council will issue certificates of registration which must be displayed, where practicable, at the principal place of practice. Registered medical practitioners must include their registration number on all medical prescriptions and other documentation and records relating to their practice as a registered medical practitioner.

Section 44 outlines the transitional provisions to apply until such time as the Council is ready to administer the new register under this Act. Until that time, the registers established under the 1978 Act shall apply.

Section 45 provides for registration applications by medical practitioners and the procedures to be followed by the Medical Council on such an application, including timescales outlined under Directive 2005/36/EC for the determination of applications under the terms of that Directive. The Council must take into account training and experience from a third country, where appropriate, for such applications.

Section 46 provides that medical practitioners not otherwise entitled to registration in the Specialist or Trainee Specialist Divisions shall be registered in the General Division.

Section 47 provides for medical practitioners to be registered in the Specialist Division, including those with Irish, EU or third country
specialist qualifications. It provides that, for a period of 5 years, the Council may work with approved specialist training bodies to assist particular medical practitioners registered in the General Division to achieve the necessary standard for registration in the Specialist Division.

Section 48 provides for the registration of persons who are employed in an approved medical specialist training post in the Trainee Specialist Division of the register, including persons entitled to registration under the terms of Directive 2005/36/EC. It also provides for registration in this Division of third country nationals or persons with refugee status (subject to any other specified requirements under rules) who have passed a prescribed examination or are exempt from such an examination.

Section 49 provides for the registration of persons undertaking an internship in an approved intern training post, in the Trainee Specialist Division. Once the person has completed a period of internship to the satisfaction of the Council, it shall grant that person a certificate of experience. Until such time as the Council is ready to grant certificates of experience, the provisions of the 1978 Act, where such certificates were granted by the medical school at which the medical practitioner undertook his or her basic medical education, shall apply.

Section 50 provides for the transposition of relevant Articles of Directive 2005/36/EC relating to the provision of temporary and occasional medical services by visiting medical practitioners. Such persons must be registered or licensed by a competent authority in another Member State. Where a person intends to practise medicine under the terms of this section, he or she must first give a declaration in writing to the Council giving specified information and documentation. It provides that the Council must decide, on a case-by-case basis, whether the provision of services is one which should be classed as temporary and occasional. Where all is in order, the Council shall include the name of the person in the Visiting EEA Practitioners Division of the register. Visiting EEA Practitioners may not practise medicine, unless in a case of emergency, otherwise than in accordance with the declaration given to the Council.

Section 51 provides for the registration of approved additional qualifications in the register and the issuing of certificates including the details of these qualifications.

Section 52 provides for the procedures for a registered medical practitioner to apply to have his or her name removed from the register. The Council shall not consider such an application where the registered medical practitioner is the subject of an unresolved complaint or has been convicted of an indictable offence until the Council decides whether such registration should be cancelled.

This section also provides for the Council to remove from the register persons who are suffering from an illness or condition of a permanent or terminal nature which renders their practice unsafe and where he or she is unable to request such removal due to the illness or condition.

Section 53 provides for the declaration of medical disabilities by applicants for registration and for the attachment of appropriate conditions, with the agreement of the medical practitioner, to registration in those circumstances.

Section 54 provides for the refusal of registration by the Council
on the grounds of the unfitness of a medical practitioner to practise medicine. Such a decision may be appealed to the High Court, which may confirm the decision or cancel it and replace it with another decision, including the attachment of conditions to registration. The Court may direct how the costs of the appeal are to be borne.

Section 55 provides for the Council to keep the register up to date and for registered medical practitioners to notify the Council of absence from the State for more than 12 months and matters which could affect the continuation of his or her registration within 30 days. These matters include imposition of sanctions by a regulatory body in another jurisdiction.

Section 56 provides for the publication of the register, excluding personal details of medical practitioners which should be protected from disclosure.

PART 7 — COMPLAINTS TO PRELIMINARY PROCEEDINGS COMMITTEE CONCERNING REGISTERED MEDICAL PRACTITIONERS

Section 57 provides for the grounds on which a complaint may be made to the Preliminary Proceedings Committee by the Council or any person. The grounds are:

(a) professional misconduct

(b) poor professional performance

(c) a relevant medical disability

(d) a failure to comply with a relevant condition

(e) a failure to comply with an undertaking or to take any action specified in a consent given in response to a request under section 67(1)

(f) a contravention of a provision of this Act (including regulations and rules)

(g) a conviction for an indictable offence in the State or in another jurisdiction

It provides for keeping the complainant informed of decisions taken and for the use of the services of a person appointed under section 58 to assist with the investigation.

Where the complaint relates to a conviction on indictment, it is referred immediately to the Council which may decide, if appropriate, to cancel the registration of the person, or refer the matter back to the Preliminary Proceedings Committee.

Complaints which were considered under the 1978 Act shall not be reconsidered under this section.

Section 58 provides that the Council may appoint persons, including members of its staff, to assist the Preliminary Proceedings Committee in the investigation of a complaint. The functions to be undertaken by and the powers of such persons are outlined. The Council shall provide a warrant to any such persons which must be produced for inspection on request.
Section 59 provides for the Preliminary Proceedings Committee to examine the complaint. Where appropriate, it may inform the complainant that the complaint is more proper to another body or authority, including complaints procedures of the Health Service Executive under the Health Act 2004. The section outlines the procedures to be undertaken by the Committee in putting the complaint to the medical practitioner and in considering whether the complaint is trivial or vexatious in nature, without substance or in bad faith. The views expressed by the medical practitioner in relation to the complaint must be considered. It provides that where a complaint is withdrawn, the Committee may proceed or decide that no further action should be taken, subject to the Council’s agreement. The Committee will have the power to compel the production of records for the purpose of its investigations.

Section 60 provides that the Council may apply ex parte to the High Court to suspend the registration of a medical practitioner to protect the public. Such applications are to be heard otherwise than in public, unless the Court decides otherwise. The Court may decide to suspend the registration or give any other direction which the Court may decide.

Section 61 provides for the Preliminary Proceedings Committee to notify the Council where it considers no further action is necessary or that the complaint relates to another body or authority or to a matter of professional competence. The Council must confirm or overrule the decision of the Committee and direct that the matter should not be pursued further or that it should be referred to another body or authority, a professional competence scheme or that further action should be taken by the Committee. The medical practitioner and the complainant must be kept informed.

Section 62 provides for the Council to develop and publish guidance on the resolution of complaints by mediation or other informal means. This must be undertaken with the consent of the complainant and the medical practitioner, cannot be resolved by the payment of financial compensation and must be kept confidential between the parties to the mediation. Matters discussed may not be used for the purposes of disciplinary, civil or criminal proceedings.

Section 63 provides that the Preliminary Proceedings Committee may, if it considers that a prima facie case exists, refer a complaint for resolution by mediation or refer the complaint to the Fitness to Practise Committee.

PART 8 — COMPLAINTS REFERRED TO FITNESS TO PRACTISE COMMITTEE

Section 64 provides for the chief executive officer to notify the registered medical practitioner of the referral of the complaint to the Fitness to Practise Committee and the nature of the matter to be the subject of the inquiry, including the evidence and the date, time and place of the hearing in sufficient time for preparation.

Witnesses, including the complainant, and the medical practitioner, may request that some or all of the hearing be held in private, if reasonable and sufficient cause can be shown.

Section 65 provides that a Fitness to Practise Committee hearing shall be heard in public unless the Committee decides, on foot of a request under section 64 that some or all of the hearing should be heard in private.
The section outlines the conduct of the hearing including oaths, cross-examination, etc.

Section 66 provides for the powers and protections of the High Court to be invested in the Fitness to Practise Committee for the purposes of enforcing witness attendance, examining witnesses on oath and compelling the production of records.

Subject to rules made under section 12 and to fair procedures, the Committee may receive evidence orally before the Committee, by affidavit or by live video link, a video recording or a sound recording or other mode of transmission.

Witnesses before the Committee have the immunities and privileges of a witness before the High Court. It is an offence for a person to fail to answer a summons to attend, refuse to take an oath, refuse to produce a record or refuse to answer a question. The maximum penalty on summary conviction is a fine of €5,000.

Subsection (9) protects the medical records of a patient from production for the purposes of an inquiry unless the patient has consented to production or the Committee has directed the medical practitioner to produce the records.

Section 67 provides that the Committee may, during an inquiry, request the medical practitioner to undertake not to repeat the conduct, undertake to be referred to a professional competence scheme, consent to undergo medical treatment or consent to being censured by the Council. Where such an undertaking or consent is not given, the Committee may proceed with the inquiry.

Section 68 provides that if a complaint is withdrawn while under consideration by the Fitness to Practise Committee, the Committee may, with the agreement of the Council, decide to take no further action or proceed as if the complaint had not been withdrawn.

Section 69 provides for the Fitness to Practise Committee to submit a report to the Council on its findings following an inquiry.

Section 70 provides for the Council, on receipt of the report under section 69, to decide to dismiss the complaint or impose a sanction as appropriate.

PART 9 — IMPOSITION OF SANCTIONS ON REGISTERED MEDICAL PRACTITIONERS FOLLOWING REPORTS OF FITNESS TO PRACTISE COMMITTEE

Section 71 provides for the sanctions to be imposed, which are:

(a) a censure in writing
(b) a censure and a fine not exceeding €5,000
(c) attachment of conditions to registration
(d) transfer of registration to another division of the register
(e) suspension of registration
(f) cancellation of registration
(g) prohibition from applying for restoration of registration for a specified period

Section 72 provides for matters supplementary to the sanctions under section 72, such as the amount of a fine, the details of conditions, the period of suspension, etc.

This section also provides for matters to be considered in relation to a proposed sanction of cancellation of registration pursuant to a conviction for an indictable offence.

Section 73 provides for the Council to notify a registered medical practitioner of the sanction it has decided to impose and the rights of the medical practitioner to appeal the decision. The decision must also be notified to the complainant.

Section 74 provides for the High Court to confirm the decision of the Council to impose a sanction (other than a censure in writing alone), on an application for confirmation by the Council to the Court.

Section 75 provides for the rights of a medical practitioner to appeal the decision of the Council to the High Court within 21 days. The Court may consider any evidence adduced or argument made to the Fitness to Practise Committee or otherwise and may decide to confirm the decision of the Council or cancel it and replace it with another decision to impose no sanction or a different sanction. The Court may make a direction as to costs.

Section 76 provides for the Council to make an application to the Court, on an ex parte basis, for confirmation of its decision where no appeal is made under section 75.

Section 77 provides for the Court to consider the evidence of any person of good standing in the medical profession as to what constitutes professional misconduct or poor professional performance in relation to the practice of that profession. Provision for appeal to the Supreme Court on a specified question of law is included.

Section 78 provides for the Council to notify the medical practitioner of any conditions attached, the transfer of registration to another Division of the Register, or the suspension of registration as confirmed by the High Court.

Section 79 provides for the Council to remove a person’s registration where an appropriate fee has not been paid, unless a complaint is outstanding against that person.

Section 80 provides for the restoration of registration removed under section 79 where the fee is paid within 6 months.

Section 81 provides for the circumstances in which a person whose registration has been cancelled may be restored to the register, including the right of the Council to attach conditions to registration it proposes to restore.

Section 82 provides for the Council to remove all or any conditions attached to a medical practitioner’s registration.

Section 83 provides for the right of a medical practitioner to appeal the decision of the Council to restore registration under section 81 or to remove conditions under section 82 to the High Court. The Court may confirm the Council’s decision, or make another order,
including the attachment of conditions, removal of conditions or replacement of conditions to registration. The Court may give directions to the Council and make an order as to costs.

Section 84 provides for the notification to the Minister, the Health Service Executive and other employers regarding the imposition of sanctions on a medical practitioner by the Council. It also provides for the Council to notify a registration body in another jurisdiction of sanctions imposed by the Council on a medical practitioner.

Section 85 provides that the Council may advise the public, where it considers it to be in the public interest, when a sanction imposed takes effect or when a sanction imposed in another jurisdiction takes effect on a medical practitioner.

PART 10 — EDUCATION AND TRAINING

Section 86 outlines the duties of the Health Service Executive with regard to medical and dental education and training.

The Executive shall facilitate the training of medical students, in accordance with the Health Act 2004.

In relation to specialist medical and dental education and training, the Executive shall promote and co-ordinate their development in co-operation with the Medical and Dental Councils and the medical and dental specialist training bodies. It must advise the Minister on these matters, including related financial matters. It shall also undertake appropriate workforce planning in order to meet the medical and dental specialist staffing and training needs of the health service.

The Executive shall assess the number of intern and specialist training posts required by the health service on an annual basis and make proposals to the Medical Council for the purposes of the Council’s recognition of such posts for training purposes.

The Executive must also assess the need for non-specialist, non-consultant posts which have not been approved for training purposes and publish the results of that assessment.

The Minister may request information on the Executive’s functions under this Act by notice in writing and the Executive shall carry out any other functions assigned to it by the Minister in relation to medical and dental education and training.

Section 87 outlines the functions of the Medical Council as a designated competent authority under Directive 2005/36/EC on the recognition of qualifications of medical practitioners.

Section 88 outlines the duties of the Medical Council with regard to basic, intern and specialist medical education and training. The Council shall publish standards on education and training. It shall approve and inspect bodies and programmes of medical education and training at basic, intern and specialist level, including the inspection and approval of training facilities. Various provisions regarding the publication of guidance and the results of inspections are included. The Council must, specifically, develop guidance on ethical standards and behaviour for medical students and advise the Minister and the Minister for Education and Science on matters relating to its functions.

The basic medical qualifications included under the 1978 Act and
the bodies approved to award those qualifications are deemed to be approved under this section and the Council may approve a basic medical qualification awarded in a third country as equivalent.

The Council shall prepare guidelines on ethical matter relating to the acceptance of non-Exchequer funding in relation to medical education and training.

The Council is also given a role in relation to the provision of career information.

Section 89 provides for the Council to recognise medical specialist training bodies, training programmes and medical specialties for the purposes of registration in the Specialist Division of the Register. Medical specialties and specialist training bodies already approved under the 1978 Act are deemed to be approved under this Act.

Section 90 provides for a body which has been refused approval by the Council for basic or specialist medical education and training to appeal to the Court against the Council’s decision.

PART 11 — MAINTENANCE OF PROFESSIONAL COMPETENCE

Section 91 provides for the duties of the Medical Council to satisfy itself as to the ongoing competence of registered medical practitioners. The Council is to develop, establish, operate and keep under review one or more than one scheme for that purpose. The Council may recognise medical education and training bodies for the purposes of assisting the Council in performing its functions. A link to the Fitness to Practise system is provided where issues arise in relation to individual medical practitioners following participation in a scheme.

Section 92 provides for appeals to be made to the Court by a body refused recognition by the Council under section 91.

Section 93 provides for the Health Service Executive and other employers to facilitate, to the extent practicable, the maintenance of professional competence of registered medical practitioners.

Section 94 outlines the duties of a medical practitioner to maintain his or her professional competence and to co-operate with any requirements relating to these matters under this Act.

Section 95 provides for the confidentiality of information disclosed as part of a professional competence scheme. The Council, may, however, disclose information in summary form which prevents the identity of individual medical practitioners being ascertained, for the purposes of criminal proceedings or investigations, or for the purposes of civil proceedings to which it is a party. Provision for an offence relating to unlawful disclosure of information is included, with a penalty of a fine not exceeding €5,000 and/or imprisonment for 6 months.

PART 12 — DISSOLUTION OF POSTGRADUATE MEDICAL AND DENTAL BOARD

Section 96 defines terms relevant to this Part of the Act.

Section 97 provides for the transfer day on which the Postgraduate Medical and Dental Board shall be dissolved and for any references
to the Board to be construed as a reference to the Health Service Executive.

Section 98 provides that the Minister may require the Board to provide any information relating to the performance of its functions on or before the transfer day.

Section 99 provides for the transfer of the staff of the Board to the Health Service Executive's staff. Preservation of the terms and conditions of employment of such staff is included.

Section 100 provides for the transfer of the property and liabilities of the Board to the Executive on the transfer day.

Section 101 provides for the preservation of contracts between the Board and any other person, with the substitution of the Executive's name for that of the Board.

Section 102 provides for the substitution of the Executive's name in relation to any legal proceedings to which the Board is a party immediately before the transfer day.

Section 103 provides for the Executive to prepare the final accounts of the Board following the transfer day, for audit by the Comptroller and Auditor General and for their presentation to the Minister and laying before the Oireachtas.

PART 13 — MISCELLANEOUS

Section 104 provides for matters which are absolutely privileged in any action for defamation, in particular matters relating to Parts 7, 8 and 9 (Fitness to Practise) and documents relating to a medical practitioners participation in a Professional Competence Scheme, unless made in bad faith.

Section 105 provides that the Council shall, at the request of the Minister, or may, of its own initiative, investigate unregistered persons suspected of practising medicine in contravention of this Act or claiming to be registered. If the Council has reason to believe that this is the case, it shall report the matter forthwith to An Garda Síochána and the Minister and may seek an injunction in the High Court requiring the person to cease the activities.

Section 106 confers additional functions on the Council with regard to the granting of licences to practise anatomy, the appointment of inspectors of anatomy and the receiving of returns made by such inspectors in accordance with the Anatomy Act of 1832.

Section 107 provides that the Council or a Committee may specify the form of documents required for the purposes of this Act, including statutory declarations, accompanying documents, details of relevant medical disabilities, etc.

Section 108 provides clarity in relation to references in other legislation to the Medical Council, the register, etc.

Section 109 provides that medical certificates must be signed by registered medical practitioners, unless the person is authorised to sign such a certificate by another enactment.
SCHEDULE 1 — REPEALS AND REVOCATIONS

This Schedule outlines the Acts repealed by this Act and the statutory instruments revoked by this Act.

SCHEDULE 2 — COUNCIL: MEMBERSHIP AND MEETINGS

This Schedule outlines the tenure of office of the Council, proceedings relating to resignations or termination of membership and the filling of casual vacancies, the quorum required for meetings of the Council, meetings, the role of the President and Vice-President and the proceedings at meetings.

An Roinn Sláinte agus Leanáí
Eanáir, 2007