



**BILLE NA LIA-CHLEACHTÓIRÍ (LEASÚ), 2011
MEDICAL PRACTITIONERS (AMENDMENT) BILL 2011**

EXPLANATORY MEMORANDUM

Background

The Medical Practitioners (Amendment) Bill is intended to urgently assist in addressing the current difficulty relating to Non-Consultant Hospital Doctor (NCHD) vacancies. The current level of vacancies at NCHD level has significant implications for the maintenance of acute services, particularly in smaller hospitals and in certain locations where vacancies are concentrated. The reasons for the shortage of NCHDs (or junior doctors) in Irish hospitals are quite complex and include the fact that the posts in question are mainly non-training posts (and therefore not attractive to doctors) and that there is a general international shortage of junior doctors.

Under the current Medical Practitioners Act 2007 (No. 25 of 2007), an applicant can seek to register in one of four divisions of the register of medical practitioners — the General Division, the Trainee Specialist Division, the Specialist Division and the Visiting EEA Practitioners Division. To be registered, an applicant must demonstrate through an examination (called the PRES) or through higher training, that they are competent to practice prior to becoming registered. Registration, if granted, is for life and a registered medical practitioner can only be removed from the register via Fitness to Practise procedures. Those registered on the General Division can take up any post including, for example, unsupervised, locum general practice positions, and may work wholly in private practice.

There is an issue in regard to the registration of doctors from countries outside the European Union. In summary, many are reluctant to travel to Ireland to sit the PRES examination (which is considered to be more suitable for recent graduates and has a high failure rate) and current legislation does not provide for any type of supervised registration.

Purpose of Bill

This Bill will provide for the establishment of a new division of the register which will be known as the Supervised Division. Those applying to be registered in this division will undergo a two-part assessment specific to their medical speciality and to this division. If successful, an applicant will be registered in the Supervised Division

for a period totalling not more than two years in an identified post approved by the Medical Council and subject to supervision by the employer in line with criteria set down by the Medical Council. As per the Medical Practitioners Act 2007, all medical practitioners registered in the Supervised Division will be subject to the Medical Council's disciplinary procedures.

Provisions of Bill

The Bill will be entitled “*An Act to amend and extend the Medical Practitioners Act 2007.*”

Section 1 sets out definitions to be used in the Bill. It specifies that any reference to the “Act of 2007” in this legislation means the Medical Practitioners Act 2007.

Section 2 amends section 2 of the 2007 Act to provide for the definition of the term “Supervised Division” and amends other terms used in that section to make reference to the Supervised Division.

Section 3 provides that section 7 of the 2007 Act, which sets out the functions of the Medical Council, is amended to give the Council the function to approve posts for the purposes of the Supervised Division.

Section 4 provides that section 11 of the 2007 Act, which sets out the Medical Council's power to make rules, is amended to provide the Council with the power to set criteria for assessing applications for registration in the Supervised Division and to specify examinations and assessments for individuals applying for registration in this Division.

Section 5 provides that section 36 of the 2007 Act, which provides for fees that the Council can charge, is amended to include references to the Supervised Division.

Section 6 provides that section 43 of the 2007 Act, Registration of Medical Practitioners, is amended to provide for the creation of a new division of the register of medical practitioners called the Supervised Division. This division will include the names of those medical practitioners registered in that division and other identifying particulars such as the individually numbered, identifiable post to which registration applies.

Section 7 provides for the amendment of section 45 of the 2007 Act to include references to a new section (section 50A) which will provide for registration in the Supervised Division.

Section 8 sets out that a new section (section 50A) will be inserted after section 50 in the 2007 Act. Section 50A provides that the Medical Council will register an individual in the Supervised Division where they do not meet the requirements for registration in another division of the register of medical practitioners but where they do meet the requirements for registration in the Supervised Division set out in this legislation and the criteria set out by the Medical Council in rules.

A medical practitioner who is registered on the Supervised Division can only remain in this division of the register for a period of two years in aggregate. Registration in this division will only apply for the period in which the medical practitioner is employed in an individually numbered, identifiable post which has been approved by

the Medical Council and is certified by the Health Service Executive (HSE) to be a publicly funded post. A post must be funded entirely or to a substantial amount by the HSE for it to be deemed publicly funded. The Council will not approve a post unless it is satisfied of the supervision arrangements that the employer has put in place for the medical practitioner who will be employed in it.

A medical practitioner's registration in the Supervised Division will cease when they cease to hold the individually numbered, identifiable post that is linked to their registration in the division. It will be the duty of the employer to inform the Medical Council that the medical practitioner no longer holds the post within 5 days.

Section 9 amends section 52 of the 2007 Act by the inclusion of a new subsection, (5A), which provides that the provisions of section 52(4) and (5) of the 2007 Act (whereby a medical practitioner who has removed his/her self from the register is allowed to have registration restored) will not apply to a person registered on the Supervised Division.

Section 10 provides for a new section, section 56A, to provide that a reference to a registered medical practitioner in Parts 7, 8 and 9 of the 2007 Act will be construed as including a reference to a medical practitioner who was, but is no longer, registered on the Supervised Division and who is not registered in another division of the register.

Section 11 amends section 60 of the 2007 Act to provide that the Council can apply *ex parte* to the High Court for an order to prohibit an individual who was registered on the Supervised Division of the register but is no longer registered in that division or another division of the register from applying for registration in any division of the register where it is considered necessary to protect the public. The Court can make any order it considers appropriate, including an order prohibiting the individual from applying for registration in any division of the register for the period specified in the order. The Court can also give any direction to the Council in relation to the application.

Section 12 amends section 70 of the 2007 Act to include reference to a new section, section 71A.

Section 13 provides for a new section, section 70A. This section provides that sections 71 and 72 of the 2007 Act will not apply where an individual was, but is no longer registered in the Supervised Division and who is not registered in another division of the register.

Section 14 provides for a new section, section 71A, to provide for the imposition of sanctions arising from the complaints process in the case of an individual whose registration on the Supervised Division has expired and where the individual is not registered in another division of the register. Sanctions may include an admonishment, censure or a fine not exceeding €5,000 or the attachment of conditions which would apply if the individual applies for registration in another division of the register of medical practitioners at a future date.

Section 15 provides for a new section, section 72A, to provide for matters supplementary to the provisions of section 71A, such as the amount of a fine, details of conditions to be attached to registration or the period of time where a medical practitioner is prohibited from applying for registration on the register.

Section 16 provides for amendments to section 73 of the 2007 Act to include references to section 71A.

Section 17 provides for amendments to section 74 of the 2007 Act to include references to section 71A.

Section 18 provides for amendments to section 75 of the 2007 Act to include references to section 71A.

Section 19 provides for amendments to section 76 of the 2007 Act to include references to section 71A.

Section 20 provides for the short title and commencement of the Act.

*An Roinn Sláinte,
Iúil, 2011.*