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*Number 10 of 2017*

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**Medical Practitioners (Amendment) Act 2017**

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[No. 10.]

*Medical Practitioners (Amendment) Act 2017.*

[2017.]

ACTS REFERRED TO

Medical Practitioners Act 2007 (No. 25)

National Treasury Management Agency (Amendment) Act 2000 (No. 39)



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*Number 10 of 2017*

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## **MEDICAL PRACTITIONERS (AMENDMENT) ACT 2017**

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An Act to amend the Medical Practitioners Act 2007 to provide for a requirement for registered medical practitioners to have medical indemnity insurance except in certain circumstances; and to provide for related matters. [23rd May, 2017]

**Be it enacted by the Oireachtas as follows:**

### **Definition**

1. In this Act “Principal Act” means the Medical Practitioners Act 2007.

### **Amendment of section 2 of Principal Act**

2. Section 2 of the Principal Act is amended by the insertion of the following definitions:

“ ‘Agency’ means the National Treasury Management Agency;

‘indemnity’ means a policy of medical indemnity insurance, or other indemnity arrangement, against losses arising from claims in respect of civil liability incurred by a medical practitioner in respect of any act or omission of that medical practitioner arising from his or her practice as a medical practitioner;

‘minimum level of indemnity’, in relation to a medical practitioner, means the level of indemnity specified by the Agency, pursuant to section 8A (inserted by *section 10* of the *Medical Practitioners (Amendment) Act 2017*) of the National Treasury Management Agency (Amendment) Act 2000, as being applicable to the class of medical practitioners (if any) into which that practitioner falls;”.

### **Amendment of section 11(2) of Principal Act**

3. Section 11(2) of the Principal Act is amended by the insertion of the following paragraph after paragraph (v):

“(va) the evidence to be submitted to the Council by a medical practitioner to satisfy the Council that the minimum level of indemnity (if any) applicable to him or her is in place and the manner in which all or part of that evidence may be displayed for the purposes of section 43(7A),”.

**Amendment of section 36(1)(c) of Principal Act**

4. Section 36(1)(c) of the Principal Act is amended by the substitution of “section 80, 80B or 81” for “section 80 or 81”.

**Duty of medical practitioner — indemnity**

5. The Principal Act is amended by the insertion of the following section after section 38:

**“Duty of medical practitioner — indemnity**

**38A.** (1) A registered medical practitioner shall ensure that the minimum level of indemnity (if any) applicable to him or her is in place at all times during which the practitioner’s registration continues.

- (2) A medical practitioner who contravenes subsection (1) shall, not later than 14 working days after the contravention occurs, give notice in writing to the Council of the contravention and particulars of the matters giving rise to the contravention (and whether or not the practitioner has, subsequent to the contravention, ceased to contravene that subsection).”.

**Amendment of section 43 of Principal Act**

6. Section 43 of the Principal Act is amended by the insertion of the following subsection after subsection (7):

“(7A) A registered medical practitioner shall, as soon as may be after the practitioner has received the certificate referred to in subsection (5) and, if it is practicable to do so, cause evidence in the manner specified by rules (if any) made under section 11(2)(va), of the minimum level of indemnity (if any) applicable to him or her to be displayed—

- (a) at the principal place where the practitioner practises medicine, and  
(b) at all times during which the practitioner’s registration continues and at no other time.”.

**Amendment of section 45 of Principal Act**

7. Section 45 of the Principal Act is amended by—

- (a) the insertion of the following subsections after subsection (1):

“(1A) An application under subsection (1) by a medical practitioner shall be accompanied by—

- (a) subject to paragraph (b), evidence, in the manner specified by rules (if any) made under section 11(2)(va), that the minimum level of indemnity (if any) applicable to that practitioner is in place, or

(b) if the practitioner does not fall within any class of medical practitioners in so far as a minimum level of indemnity is concerned, evidence of that fact.

(1B) Subsection (1A) applies, with all necessary modifications, to a renewal or restoration of registration as it applies to a first registration.”,

and

(b) the insertion of the following subsection after subsection (3):

“(4) Notwithstanding any other provision of this Act, the Council shall not register a medical practitioner unless the Council is satisfied that the practitioner has provided—

(a) subject to paragraph (b), evidence, in the manner specified by rules (if any) made under section 11(2)(va), that the minimum level of indemnity (if any) applicable to that practitioner is in place, or

(b) if the practitioner does not fall within any class of medical practitioners in so far as a minimum level of indemnity is concerned, evidence of that fact.”.

#### **Amendment of section 50 of Principal Act**

8. Section 50 of the Principal Act is amended—

(a) in subsection (1) by the substitution of “and has provided evidence, in the manner specified by rules (if any) made under section 11(2)(va), that the minimum level of indemnity (if any) applicable to that practitioner is in place, the Council shall” for “the Council shall”, and

(b) in subsection (3) by the substitution of “unless he or she has provided evidence in accordance with this section that the minimum level of indemnity (if any) applicable to that practitioner is in place and unless the practice is” for “otherwise than”.

#### **Removal of registration for failure to provide certain evidence relating to indemnity and restoration after removal under section 80A**

9. The Principal Act is amended by the insertion of the following sections after section 80:

##### **“Removal of registration for failure to provide certain evidence relating to indemnity**

**80A.** (1) Subject to subsection (2), where a medical practitioner fails to provide evidence referred to in subsection (1A) or (1B), as the case may be, of section 45, notwithstanding that a request to provide that evidence has been sent to the practitioner’s registered address, the Council may, not earlier than 21 days after that request has been sent, remove the practitioner’s registration.

- (2) The Council shall not exercise its power under subsection (1) in the case of a registered medical practitioner the subject of a complaint which has not been disposed of or otherwise dealt with under Part 7 and, if applicable, Part 8 and this Part.

**Restoration after removal under section 80A**

**80B.** Where a medical practitioner's registration has been removed pursuant only to section 80A, the chief executive officer shall restore that registration if the practitioner provides the evidence referred to in subsection (1A) or (1B), as the case may be, of section 45 not later than 6 months after the date on which the practitioner was obliged to provide such evidence and pays to the Council the appropriate fee."

**Amendment of National Treasury Management Agency (Amendment) Act 2000**

10. The National Treasury Management Agency (Amendment) Act 2000 is amended by the insertion of the following section after section 8:

**"Additional function – specification of minimum levels of indemnity for classes of medical practitioners**

- 8A.** (1) The Agency shall, by notice in *Iris Oifigiúil*, specify, having regard to the criteria set out in subsection (3), and after consultation with the Medical Council and any other person that the Agency considers appropriate, the minimum levels of indemnity applicable to classes of medical practitioners.
- (2) The Agency shall, as regards the minimum levels of indemnity specified in a notice referred to in subsection (1), specify, in that notice, a date or the occurrence of an event from which such levels of indemnity are to take effect and different dates or events may be specified for different classes of medical practitioners.
  - (3) The criteria referred to in subsection (1) in respect of a class of medical practitioners are—
    - (a) the level of risk generally inherent in the medical specialty practised by the members of that class,
    - (b) the level of risk, from any act or omission of a member of that class, to the health, safety or welfare of any person to whom a duty of care is owed by the members of that class in their capacity as medical practitioners who fall within that class,
    - (c) the risks identified by providers of indemnity as particularly associated with the medical specialty practised by members of that class, and
    - (d) the level of awards or settlements made in proceedings where the cause of action arose out of an alleged breach of duty involving a member of that class in his or her capacity as a medical practitioner who falls within that class.

- (4) In this section—
- (a) “indemnity”, “medical practitioner” and “minimum level of indemnity” have the same meanings as they have in the Medical Practitioners Act 2007,
  - (b) “medical specialty” means a medical specialty recognised by the Medical Council under section 89(1) of the Medical Practitioners Act 2007 and includes any subset of a medical specialty.”.

**Short title and commencement**

- 11.** (1) This Act may be cited as the Medical Practitioners (Amendment) Act 2017.
- (2) This Act shall come into operation on such day or days as the Minister for Health may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.