

MEDICAL COUNCIL RULES, 1957

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MEDICAL COUNCIL RULES, 1957

In exercise of the powers conferred by Secs. 4 and 32 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following rules, namely:

1. Short title :-

These rules may be called the Indian Medical Council Rules, 1957.

2. Definitions :-

In these rules, unless the context otherwise requires,

- (a) 'Act' means the Indian Medical Council Act, 1956 (102 of 1956);
- (b) 'Form' means a form annexed to these rules;
- (c) 'President' means the President of the Medical Council of India;
- (d) 'Returning Officer' means any officer appointed as such by the Central Government for the purposes of these rules;
- (e) 'Section' means a section of the Act.

3. Representatives of Universities :-

(1) The President shall, not later than ninety days before the date of occurrence of a vacancy by the expiry of the term of office of a member, send intimation thereof to the Central Government who shall, not later than sixty days before the date of occurrence of the vacancy, forward a notice by registered post to the Registrar of the University concerned requesting him to hold an election by a date not later than the date specified in the notice.

(2) In the case of any other vacancy, the President shall notify the Central Government as soon as possible the occurrence of the vacancy and the Central Government shall thereupon forward a notice by registered post to the Registrar of the University concerned requesting him to hold an election to fill that vacancy by a date not later than the date specified in the notice.

(3) For the purpose of the first election under Cl. (b) of sub-section (1) of Sec. 3, it shall be sufficient if the Central Government forwards a notice by registered post to the Registrar of each University concerned requesting him to hold the election by a date not later than the date specified in the notice.

4. Election by Senate or Court :-

The members of the University or in case the University has no Senate, the members of the Court shall elect a member in such manner as the Vice-Chancellor of the University may think fit.

5. Intimation of name of elected person to the Central Government :-

The name of the person elected shall be intimated by the Registrar of the University to the Central Government who shall take steps to publish the name of the elected person in the Official Gazette.

6. Persons entitled to vote at and to stand for election :-

All persons whose names are borne on the State Medical Register and who possess the medical qualifications included in the First or the Second Schedule or in Part II of the Third Schedule to the Act shall be entitled to vote at the election of a member under Sec. 3(1) and to stand as candidates for such election.

7. Posting of copies of State Medical Register :-

Copies of the State Medical Register shall be posted at the offices of the Returning Officer and of the State Medical 1. Published in the Gazette of India, 1957, pt. II, Sec. 3. p. 831 Council¹ [The register shall be brought up-to-date before posting. For this purpose, the Returning Officer shall give one month's notice to the Registrar, State Medical Council concerned who maintains the register in the State.]

1. Ins. by S.O. 2910, dated 11th September, 1962.

8. Returning Officer to hold the election :-

The Returning Officer shall call upon persons enrolled in the State Medical Register and possessing the medical qualifications referred to in Sec. 3(1)(C) to elect one member to the Council as hereinafter provided.

9. Returning Officer to decide questions relating to right of persons to stand for or to vote at election :-

If any question arises as to whether a person is or is not entitled to vote in the election or to stand for the election, the question shall be referred to the Returning Officer whose decision thereon shall be final.

10. Fixation of dates of various stages of election :-

The Returning Officer shall appoint and shall notify in the Official Gazette and in such other manner as he thinks fit, the date, time and place for

- (a) the receipt of the nomination papers and their scrutiny;
- (b) the despatch of voting papers to the electors;
- (c) the poll; and
- (d) the scrutiny and counting of votes.

11. Nomination of candidates :-

Any person qualified to stand for election under these rules may be nominated as a candidate for election. Such nomination shall be

made by means of a nomination paper in Form No. I which shall be supplied by the Returning Officer to any elector who may apply for the same.

12. Nomination paper :-

(1) Each nomination paper shall be subscribed by two electors as proposer and seconder: Provided that no elector shall subscribe more nominations than one: Provided further that if more than one information paper be subscribed by the same elector, the nomination paper first received by the Returning Officer shall, if otherwise in order, be held to be valid and if more than one nomination paper signed by the same elector be received simultaneously by the Returning Officer, all such nomination papers shall be held to be invalid.

(2) On receipt of each nomination paper, the Returning Officer shall forthwith endorse thereupon the date and hour of receipt.

13. Rejection of nomination paper :-

A nomination paper which is not received before the date and the time appointed in that behalf shall be rejected.

14. Scrutiny of nomination papers :-

(1) On the date and at the time appointed by the Returning Officer for the scrutiny of the nomination papers, the candidates and the proposer and seconder of each candidate may attend the office of the Returning Officer, who shall allow them to examine the nomination papers of all the candidates which have been received by him as aforesaid.

(2) The Returning Officer shall examine the nomination papers and decide all questions which may arise as to the validity of any nomination and his decision thereon shall be final.

15. Withdrawal of candidate :-

(1) Any candidate may withdraw his candidature ¹ [before the time appointed for the scrutiny of nomination papers] by notice in writing signed by him and delivered to the Returning Officer [* * *]. A candidate who has

(2) The Returning Officer shall on receiving a notice of withdrawal, publish the fact of such withdrawal in the Official Gazette.

1. Ins. by S.R.O. 2282, dated 5th July, 1957.

16. Poll :-

(1) If only one candidate is duly nominated, the Returning Officer shall forthwith declare such candidate to be elected.

(2) If the number of duly nominated candidates exceeds one, the Returning Officer shall publish their names and addresses in the Official Gazette and shall further cause their names to be entered in the voting papers in Form No. II.

(3) If a poll is found necessary, the Returning Officer ¹ [shall, thirty days before the date appointed therefor, send by air mail to an elector residing or practising abroad and by post to any other elector] a letter of intimation in Form No. IV together with a numbered declaration paper in Form No. III, a voting paper in Form No. II containing the names of the candidates in alphabetical order and bearing the Returning Officer's initials or facsimile signature, a voting paper cover addressed to him (the Returning Officer) and an outer cover also addressed to him. A certificate of posting shall be obtained in respect of each such letter of intimation sent to an elector:

Provided that the voting paper and other connected papers may also be sent to any elector on his applying to the Returning Officer for the same before the date appointed for the poll, if the Returning Officer is satisfied that the papers have not been sent to him.

(4) An elector who has not received the voting and other connected papers sent to him by post or who has lost them or in whose case the papers before their return to the Returning Officer have been inadvertently spoilt, may transmit a declaration to that effect signed by himself and request the Returning Officer ²[not later than seven days before the date appointed for the poll] to send him fresh papers and if the papers have been spoilt, the spoilt papers shall be returned to the Returning Officer who shall cancel them on receipt. In every case in which fresh papers are issued, a mark shall be placed against the number relating to the elector's name in a copy of the State Medical Register to denote that fresh papers have been issued.

(5) No election shall be invalid by reason of the non-receipt by an elector of his voting paper.

1. Subs., by S.R.O. 2282, dated 5th July, 1957

17. Votes to be sent by registered post :-

Every elector desirous of recording his vote shall, after filling up the declaration paper and the voting paper according to the directions given in the letter of intimation, enclose the voting paper in the voting paper cover, stick up the cover, enclose the cover and the declaration paper in the outer envelope addressed to the Returning Officer, and send the outer envelope by registered post at the elector's own cost to the Returning Officer, so as to reach him not later than 5 P.M. on the date fixed for the poll. All envelopes received after that day and hour or received by unregistered post shall be rejected.

18. Endorsement by Returning Officer on registered cover :-

On receipt by registered post of the envelopes containing the declaration paper and the closed cover containing the voting paper, the Returning Officer shall endorse on the outer envelope the date and hour of receipt.

19. Candidates may be present when registered covers are opened :-

The Returning Officer shall open the outer envelopes immediately after 5 P.M. on the day fixed for the poll at the place to which the envelopes are addressed to him. Any candidate may be present in person or may send a representative duly authorised by him in writing to attend at the time the outer envelopes are opened.

20. Rejection of voting papers :-

(1) A voting paper cover shall be rejected by the Returning Officer if

(a) the outer envelope contains no declaration paper outside the voting paper cover, or

(b) the declaration paper is not the one sent by the Returning Officer, or

(c) the declaration paper is not signed by the elector, or

(d) the voting paper is placed outside the voting paper cover, or

(e) more than one declaration paper or voting paper cover have been enclosed in one and the same outer envelope.

(2) In each case of rejection, the word 'Rejected' shall be endorsed on the voting paper cover and the declaration paper.

(3) After satisfying himself that the electors have affixed their signatures to the declaration papers, the Returning Officer shall keep all the declaration papers in safe custody, pending disposal under rule 23.

21. Scrutiny and counting of votes :-

(1) The Returning Officer shall attend, for the purpose of scrutiny and counting of the votes at the date, time and place, appointed by him in this behalf provided the date so appointed shall not be later than three days from the date fixed for the poll.

(2) All the voting paper covers, other than those rejected under rule 20, shall be opened and the voting papers taken out and mixed together. The voting papers shall then be scrutinised and the valid votes counted.

(3) A voting paper shall be invalid if

(a) it does not bear the Returning Officer's initials, or facsimile signature; or

(b) a voter signs his name or writes a word or makes any mark on it, by which it becomes recognizable as his voting paper; or

(c) no vote is recorded thereon; or

(d) the number of votes recorded thereon exceeds the number to be filled; or

(e) it is void for uncertainty of the vote exercised.

(4) Any candidate may be present in person or may send a representative duly authorised by him in writing to watch the process of counting.

(5) The Returning Officer shall show the voting papers, if requested to do so, to the candidates or their authorised representatives at the time of scrutiny and counting of votes.

(6) If any objection is made to any voting paper on the ground that it does not comply with the specified requirements or to any rejection by the Returning Officer of a voting paper, it shall be decided at once by the Returning Officer whose decision thereon shall be final.

(7) The Returning Officer shall nominate such number of scrutinizers as he thinks fit. The scrutinizers shall be Gazetted

Officers of the Government.

22. Declaration of result :-

(1) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate to whom the largest number of valid votes has been given to be duly elected and shall forthwith inform the successful candidate by letter of his being elected to the Council. If any candidate thus shown to be elected ¹ [***] refuses to accept election, then in the place of that candidate, one of the remaining candidates to whom the next largest number of votes have been given shall be held to have been elected and the same procedure shall be followed as often as a vacancy is caused in this way.

(2) When an equality of votes is found to exist between any candidates and the addition of a vote will entitle any of the candidates to be declared elected, the determination of the person to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

1. Omitted by S. R. O. 2282, dated 5th July, 1957.

23. Voting papers to be retained for six months :-

Upon the completion of the counting and after the result has been declared by him, the Returning Officer shall seal up the voting papers and all other documents relating to the election and shall retain the same for a period of six months and he shall not destroy or cause to be destroyed the records even after six months without the previous concurrence of the Central Government.

24. Result of election :-

The Returning Officer shall intimate the name of the elected candidate to the Central Government.

25. Power to declare any election void :-

(1) The Central Government may, on objection made by candidate for any election within a period of fifteen days from the date of the election of the returned candidate, or of its own motion at any time, declare the election to be void on account of bribery, undue influence or other corrupt practice which, in the opinion of the Central Government, has interfered with the free and fair conduct of the election or for any other sufficient cause, and may call on the electorate to make a fresh election.

(2) The decision of the Central Government under this rule shall be final.

26. Nomination to the Council under Sec. 3(I)(d) pending elections :-

Pending the preparation of the Indian Medical Register in accordance with the provisions of the Act, the members referred to in Cl. (d) of sub-section (1) of Sec. 3 shall be nominated by the Central Government instead of being elected as provided therein.

27. 27 :-

(1) Where the name of any person has been removed from a State Medical Register on any ground other than that he is not possessed of the requisite medical qualifications or where any application made by the said person for the restoration of his name to the State Medical Register has been rejected, the said person may appeal to the Central Government against the decision of the State Government or other authority ordering such removal or rejecting his application:

Provided that such an appeal shall lie to the Central Government only after the party has exhausted all his remedies under the State enactment concerned.

(2) Every such appeal which shall be in writing and addressed to the Central Government, shall state the grounds for the appeal and shall be accompanied by all relevant documents in original. It shall also be accompanied by a Treasury Receipt for the payment of a fee of Rs. 20 (rupees twenty only) which shall not be refundable.

(3) An appeal shall be admitted by the Central Government only when it is made within thirty days from the date of the decision appealed against.

(4) The Central Government, on receipt of such an appeal, shall consult the Medical Council of India who shall be asked to give their opinion by a specified date. The decision of the Central Government shall be communicated to the appellant by registered post.

28. . :-

The decision of the Central Government shall be final on any question that may arise as to the intention, construction or application of these rules.

