



STATUTORY INSTRUMENTS.

**S.I. No. 22 of 2013**



MEDICAL COUNCIL (ELECTION OF REGISTERED MEDICAL  
PRACTITIONERS) REGULATIONS 2013

## MEDICAL COUNCIL (ELECTION OF REGISTERED MEDICAL PRACTITIONERS) REGULATIONS 2013

I, JAMES REILLY, Minister for Health, in exercise of the powers conferred on me by section 18(1) of the Medical Practitioners Act 2007 (No. 25 of 2007), hereby make the following regulations:

*Citation*

1. These Regulations may be cited as the Medical Council (Election of Registered Medical Practitioners) Regulations 2013.

*Interpretation*

2. In these Regulations—

“Act” means the Medical Practitioners Act 2007 (No. 25 of 2007), as amended by the Health (Miscellaneous Provisions) Act 2007 (No. 42 of 2007), the Health (Miscellaneous Provisions) Act 2010 (No. 18 of 2010), and the Medical Practitioners (Amendment) Act 2011 (No. 12 of 2011);

“election” means an election referred to in section 17(1)(f) of the Act;

“first election” means the first election conducted in accordance with these Regulations;

“Minister” means the Minister for Health;

“Regulations of 2008” means the Medical Council (Election of Registered Medical Practitioners) Regulations 2008 (S.I. No. 23 of 2008);

“returning officer”—

(a) in relation to the first election, means the person referred to in Regulation 4(1),

(b) in relation to any other election, means the person appointed under Regulation 4(2) to be the returning officer for the purposes of the election;

*Conduct of elections*

3. Elections shall be conducted in accordance with these Regulations.

*Returning officer*

4. (1) Notwithstanding the revoking of the Regulations of 2008, the person who was appointed the returning officer in December 2012 under the Regulations of 2008 shall be deemed to be the returning officer for the first election.

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 29th January, 2013.*

(2) The Council shall appoint a person to be a returning officer for the purposes of an election other than the first election.

(3) Subject to the provisions of these Regulations, the returning officer shall be responsible for the conduct of an election.

(4) The Council shall defray the expenses of the returning officer in conducting an election.

#### *Nominations*

5. (1) Not later than 4 months before the expiration of the term of office of members of the Council (but, in the case of the first election, on such date or dates as may be decided by the returning officer), there shall be published, on behalf of the returning officer, in one or more daily newspapers circulating in the State and on the Council's website, public notice of—

- (a) the day and hour (hereinafter referred to as the expiration of the time for receiving nominations) on and at which the period during which the returning officer may receive nomination papers will expire,
- (b) the day on which, the time during which and the place at which the returning officer will attend to receive nomination papers, for the election in respect of the six descriptions of medical practitioner referred to in section 17(8) of the Act, and
- (c) (if a poll is taken) the day and hour on and at which the period during which the returning officer may receive votes will expire.

(2) The notice referred to in paragraph (1) shall be in the form the returning officer deems appropriate.

(3) The returning officer may arrange for the publication of the notice referred to in paragraph (1) in such other publications as the returning officer considers appropriate.

(4) The expiration of the time for receiving nominations shall be not less than 21 days and not more than 30 days after the first publication of the notice referred to in paragraph (1).

(5) The returning officer shall on the last day for receiving nominations attend to receive nominations between the hours of 10 a.m. and 1 p.m. at the place appointed by the returning officer for receiving nomination papers. Every nomination paper delivered to the returning officer at any time before the commencement of those hours may be delivered to the returning officer by post or in person and shall be retained by the returning officer and produced by the returning officer at the commencement of those hours and shall for the purpose of these Regulations and all other purposes be deemed to have been delivered to the returning officer at the beginning of those hours.

(6) A candidate for election shall be a registered medical practitioner practising medicine in the State (but excluding any visiting EEA practitioner) on the

day preceding the last day for receiving nominations and shall be nominated in writing and such writing shall be subscribed by not less than 10 other registered medical practitioners and shall, together with a completed declaration of consent to nomination by the candidate in a form to be specified by the returning officer and published on the Council's website, be delivered so as to reach the returning officer at any time between the date the notice referred to in paragraph (1) is published and the expiration of the time for receiving nominations.

(7) Each candidate shall be nominated by a separate nomination paper (except that, subject to paragraph (11), if more than one nomination paper is delivered or given to the returning officer in respect of the same candidate, the nomination papers concerned shall be treated as a single nomination paper for that candidate). The nomination paper shall be in a form to be specified by the returning officer and published on the Council's website. Any elector may submit as many nomination papers as the elector may desire.

(8) Each candidate shall be described in the nomination paper in such manner as in the opinion of the returning officer is calculated sufficiently to identify the candidate. The surname of the candidate shall be placed first in the statement of the candidate's names and the description shall include the registered address of the candidate. A misnomer or inaccurate description of any person or place named in any nomination paper shall not invalidate the paper if in the opinion of the returning officer the misnomer or description of the person or place, as the case may be, is such as to be commonly understood.

(9) No objection to a nomination paper on the ground of any description of the candidate therein not being sufficient or not being in compliance with these Regulations shall be allowed or deemed invalid unless the objection is made by the returning officer or to the returning officer by some other person during the time for receiving nominations.

(10) A candidate may before the expiration of the time for receiving nominations but not afterwards withdraw from candidature by furnishing a notice to that effect, signed by the candidate, to the returning officer.

(11) A candidate may not, at the same election, stand for election in more than one of the six descriptions of medical practitioner referred to in section 17(8) of the Act and, accordingly, if the returning officer has received a duly completed nomination paper for a candidate for election in one of those descriptions of medical practitioner, the returning officer shall reject all subsequent nomination papers for that candidate in any other of those descriptions of medical practitioner received by the returning officer (including any such nomination papers received on the same day as the first-mentioned nomination paper).

(12) The returning officer may reject a nomination on the basis that the candidate does not qualify for nomination in that description of medical practitioner.

*Ineligibility of candidates for nomination*

6. (1) A registered medical practitioner is deemed to be ineligible to become a candidate for election to the Council if the person—

- (a) has served as a member of the Council for two consecutive terms or more,
- (b) is a member of either House of the Oireachtas or of the European Parliament or of a local authority,
- (c) has been adjudged bankrupt,
- (d) has made a composition or arrangement with creditors,
- (e) has been convicted of an indictable offence,
- (f) has been convicted of an offence involving fraud or dishonesty,
- (g) has been the subject of an order under section 160 of the Companies Act 1990,
- (h) has been sentenced to a term of imprisonment by a Court of competent jurisdiction, or
- (i) has been removed by a competent authority for any reason (other than failure to pay a fee) from a register established for the purpose of registering members of a profession in the State or in another jurisdiction.

*Death of candidate*

7. If a candidate dies at any time between the candidate's nomination for election under these Regulations and the declaration of election of candidates by the returning officer, the nomination of that candidate shall be disregarded and any votes cast for that candidate shall also be disregarded.

*Preparation of a Poll for the Election of Council Members*

8. (1) If there is only one duly nominated candidate falling within paragraph (a), (b), (c), (d), (e) or (f) of section 17(8) of the Act the returning officer shall, subject to compliance with section 17(1)(f) of the Act, forthwith declare that candidate to be elected in so far as that paragraph is concerned.

(2) If there is more than one duly nominated candidate falling within paragraph (a), (b), (c), (d), (e) or (f) of section 17(8) of the Act, a poll shall be taken by the returning officer.

(3) The poll shall take the form of an electronic ballot.

(4) The returning officer shall cause to be prepared an electronic voting system for the purpose of undertaking the poll.

(5) (a) The returning officer may contract the provision of services in relation to the undertaking of an electronic ballot to an independent person or organisation.

(b) Any person or organisation contracted by the returning officer to provide services in relation to an electronic ballot must undertake the

tasks assigned to them by the returning officer in a manner specified by the returning officer.

*Eligibility to Vote*

9. For the purpose of all elections, every person who is registered on the Register of Medical Practitioners at a date specified by the returning officer is entitled to vote in the election of Council members.

10. The returning officer may determine a unique identifier for each person listed in the Electoral Roll to use when accessing the electronic voting system.

*Election*

11. Each voter is entitled to cast one vote in each of up to the six polls that may be undertaken for the election of Council members.

12. Each voter shall electronically mark, in a manner to be specified by the returning officer, the name of one person only for whom the voter desires to vote in each of the polls to be undertaken for the election of the 6 members to the Council referred to in section 17(8) of the Act and as provided by the electronic voting system.

13. Each voter shall follow the explicit instructions which the returning officer may specify in order to complete the electronic ballot and the submissions of the completed electronic ballot for inclusion in the election.

14. The electronic electoral system shall close on the date and time specified by the returning officer.

15. (1) The returning officer shall, at a time specified by the returning officer after the expiration of the time during which the returning officer may receive votes, access the results of the electronic ballot.

(2) It shall be the responsibility of the returning officer to determine what is considered appropriate activity in relation to the accessing of the results of the electronic ballot.

(3) The returning officer may deem the result of a poll null and void in circumstances where the results have been deemed to have been compromised.

(4) In the event of a poll being declared null and void in circumstances where the results have been deemed to have been compromised, the returning officer may declare his or her intention to call another poll under the terms of these procedures.

16. The returning officer shall ensure that the provisions of section 17(1) (f) and section 17(8) of the Act are complied with and the requisite number of candidates having the greatest number of votes shall be declared elected by the returning officer.

17. If any equality of votes is found to exist between any candidates and the addition of a vote would entitle any such candidates to be declared elected, the

returning officer shall determine by lot which of the candidates whose votes are equal shall be declared elected.

*Powers of returning officer*

18. (1) Any question arising with regard to the validity of a nomination or completed ballot, or otherwise in connection with any election held under these Regulations, shall be determined by the returning officer.

(2) The returning officer, for the purpose of determining the validity of a nomination for election, may require a candidate to give to the returning officer such relevant information relating to the candidate's practice of medicine as the returning officer requires and may require the candidate to furnish appropriate evidence in relation to any information so given.

(3) The failure by a candidate to give information requested under paragraph (2), or to provide evidence required for the purpose of that paragraph, may be regarded by the returning officer as grounds for invalidating a nomination.

(4) An election held under these Regulations shall not be invalidated by reason of any misdescription or non-compliance with the provisions of these Regulations or by reason of any misconduct or of the non-delivery, loss or miscarriage in the course of post of any document or a failure of the electronic system to register a vote or a failure in the computing facilities of a voter, if it appears to the returning officer that the election was conducted substantially in accordance with the provisions of these Regulations, and the result of such misdescription, non-compliance, misconduct, non-delivery, loss, miscarriage or information technology failure did not substantially affect the result of the election.

*Notice of persons elected*

19. The returning officer shall give to every person elected written notice of the person's election and shall furnish the Minister and the Council with a list of the persons certified by the returning officer to have been duly elected, showing, if a poll is taken, the number of votes cast for each candidate.

*Revocations*

20. The Medical Council (Election of Registered Medical Practitioners) Regulations 2008 (S.I. No. 23 of 2008) are revoked.



GIVEN under my Official Seal,  
25 January 2013.

JAMES REILLY,  
Minister for Health.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations are made under section 18(1) of the Medical Practitioners Act 2007 (No. 25 of 2007) as amended by the Health (Miscellaneous Provisions) Act 2007 (No. 42 of 2007), the Health (Miscellaneous Provisions) Act 2010 (No. 18 of 2010), and the Medical Practitioners (Amendment) Act 2011 (No. 12 of 2011). These Regulations specify the procedures to be followed for the purposes of an election referred to in section 17(1)(f) of that Act and provide for electronic elections. These regulations revoke the previous regulations.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
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PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
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€3.05



Wt. (B29703). 285. 1/13. Clondalkin. Gr 30-15.