

PHARMACY (AMENDMENT) ACT.

Act No. 54, 1940.

George VI.
No. 54, 1940.

An Act to make further provision for regulating the carrying on of the business of a pharmacist; to amend the Pharmacy Act, 1897, the Poisons Act, 1902, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 11th December, 1940.]

BE

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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1. (1) This Act may be cited as the "Pharmacy (Amendment) Act, 1940."

Short title
citation
and com-
mencement.

(2) The Pharmacy Act, 1897, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Pharmacy Act, 1897-1940.

(4) This Act shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Principal Act is amended—

Amendment
of Act No. 7,
1897.

(a) by omitting paragraph (a) of section four;

Sec. 4.
(Officers.)
New sec. 4A.

(b) by inserting after section four the following new section:—

4A. (1) The Governor may appoint a registrar and such officers and employees as he may deem necessary for the purposes of carrying out the provisions of this Act.

Appointment
of officers
and
employees.

(2) The registrar and such officers and employees shall be appointed under and be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

(2) (a) The registrar appointed under the Pharmacy Act, 1897, and holding office immediately before the commencement of this Act, shall continue to hold such office in all respects as if he had been appointed under section 4A of the Pharmacy Act, 1897, as inserted by paragraph (b) of subsection one of this section and shall be an officer within the meaning of the Public Service Act, 1902, as amended by subsequent Acts.

(b) All officers other than the registrar appointed under the Pharmacy Act, 1897, and holding office immediately before the commencement of this Act, shall, at such commencement, be deemed to have been appointed under section 4A of the Pharmacy Act, 1897, as inserted by paragraph (b) of subsection one of this section

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section and shall be employees within the meaning of the Public Service Act, 1902, as amended by subsequent Acts.

Further amend-
ment of Act
No. 7, 1897.
Substituted
sec. 8.

Roll fee.
cf. Act No.
10, 1934, s. 6.

3. The Principal Act is further amended—

(a) by omitting section eight and by inserting in lieu thereof the following section:—

8. (1) Every registered pharmacist shall, before the thirty-first day of October in each year (which day is in this section referred to as the "prescribed day") pay to the registrar a roll fee of such amount as may be prescribed for the year commencing on the first day of January next following the prescribed day.

The fee so prescribed shall be not less than one pound nor more than two pounds.

(2) Together with the roll fee, the registered pharmacist shall furnish particulars of his address for entry in the register.

(3) If a registered pharmacist does not pay the roll fee referred to in subsection one of this section on or before the prescribed day in any year the Board shall forthwith notify him by registered letter addressed to him at the address appearing on the register, that if the fee be not paid before the thirty-first day of December next following the prescribed day his name will be removed from the register.

If any registered pharmacist who has been so notified fails to pay such fee before the said thirty-first day of December the Board shall remove his name from the register.

(4) If the name of any pharmacist is removed from the register under this section, the Board shall upon application in the prescribed form, restore his name to the register upon payment of such fees as are prescribed by regulations made under this Act.

The regulations may provide for the waiver of such part of the fees as the Board may in a particular case deem proper.

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(5) Where the name of a pharmacist has been removed from the register, and until the name has been restored thereto, the pharmacist shall be deemed to be a person not registered as a pharmacist under this Act.

(6) This section shall apply to persons registered as pharmacists at the commencement of the Pharmacy (Amendment) Act, 1940, as well as to persons registered as pharmacists after such commencement.

(b) by inserting at the end of subparagraph (i) of paragraph (g) of section eleven the words "or for a like period as an apprentice to a registered pharmacist in charge of a dispensary of a Friendly Society; or for a like period as an apprentice to a registered pharmacist who is also a managing director or general manager of a company where such apprenticeship is served in open shop kept by such company in New South Wales for the purpose of dispensing and compounding medical prescriptions; or for a like period as an apprentice to a registered pharmacist in charge of a dispensary in an open shop kept by a company in New South Wales for the purposes of dispensing and compounding medicines";

Sec. 11.
(Qualification for registration.)

(c) by inserting at the end of section seventeen the following words:—

Sec. 17.
(Falsely pretending to be a pharmacist.)

"A company carrying on the business of a pharmacist in an open shop shall not be guilty of an offence against this section merely on the ground that it describes itself in connection with the carrying on of such business as "chemists" or as "chemists and druggists" or as "dispensing chemists."

4. The Principal Act is further amended by inserting after section eighteen the following new sections:—

Further amendment of Act No. 7, 1897.
New secs. 18A, 18B.

18A. (1) Except as provided in subsection two of this section, no company, and no association of persons incorporated or unincorporated, not being a partnership, shall carry on the business of a pharmacist in an open shop.

Company or association not to carry on business.

(2)

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(2) Subsection one of this section shall not operate to prohibit a company or association which was, immediately before the prescribed date, carrying on the business of a pharmacist in open shop, from continuing to carry on such business where the carrying on of the business is so continued—

- (a) in the open shop in which it was being carried on immediately before the prescribed date or, in lieu of that shop, in another open shop which is distant not more than five miles from the shop in which such business was being carried on immediately before the prescribed date;
- (b) without any alteration in the name under which the business was being carried on immediately before the prescribed date.

For the purposes of this subsection the “prescribed date” shall be the twenty-seventh day of November, 1940.

(3) If any company or incorporated association contravenes any provision of this section it shall be guilty of an offence against this Act and shall be liable to a penalty of not less than one hundred pounds and not exceeding two hundred pounds.

(4) If any unincorporated association contravenes any provision of this section the members of the board of management or other controlling authority thereof shall each be severally guilty of an offence against this Act, and shall be liable to a penalty of not less than twenty pounds and not exceeding one hundred pounds.

(5) This section shall not operate to prevent any company or association of persons which has entered into possession of the business of a pharmacist under a bill of sale, from carrying on such business in open shop during a period not exceeding three months after the date upon which such company or association so entered into possession.

This subsection shall extend to and in respect of any company or association which has so entered
into

into possession before the commencement of this Act, and in any such case the period of three months referred to in this subsection shall commence to run upon the date of such commencement.

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18B. (1) A person who, either alone or as a partner of any other person, carries on the business of a pharmacist in open shop shall not carry on such business in more than one open shop.

Person not to carry on business in more than one shop.

(2) Subsection one of this section shall not operate to prohibit a person who, either alone or as a partner of any other person, was, immediately before the prescribed date, carrying on the business of a pharmacist in an open shop from continuing to carry on such business in an open shop in which it was being carried on immediately before the prescribed date, or, in lieu of that shop, in another open shop which is distant not more than five miles from the shop in which such business was being carried on immediately before the prescribed date.

For the purposes of this subsection the prescribed date shall be the twenty-seventh day of November, 1940.

(3) Any person who contravenes any provision of this section shall be guilty of an offence against this Act, and shall be liable to a penalty of not less than twenty pounds and not exceeding one hundred pounds.

5. The Principal Act is further amended—

(a) by omitting section twenty-one and by inserting in lieu thereof the following section:—

Further amendment of Act No. 7, 1897. Substituted sec. 21.

21. (1) The fees and penalties payable under this Act or any regulation made thereunder shall be paid to the registrar.

(2) The amount of such fees and penalties shall be paid by the registrar to the Colonial Treasurer and shall be carried to the Consolidated Revenue Fund.

(3) The expenses of the Board in carrying out the administration of this Act shall be paid out of moneys provided by Parliament.

(b)

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New sec. 2A.

Additional
member of
Board.

(b) by inserting after section two the following new section:—

2A. (1) Upon a day to be appointed by the Governor (which day shall be not later than one month after the commencement of the Pharmacy (Amendment) Act, 1940), and notwithstanding anything contained in section one and section two of this Act, there shall be an additional member of the board who shall be appointed by the Governor upon the nomination of the Friendly Societies' Association of New South Wales.

(2) The term of office of the member so appointed shall be three years.

(3) Upon the expiration of his term of office such member shall be eligible from time to time for re-appointment upon nomination as aforesaid.

(4) Where a vacancy occurs in the office of a member appointed under this section before the expiration of his term of office a member shall be appointed by the Governor on nomination as aforesaid to fill his place.

(5) A member so appointed to fill any such vacancy shall hold office for the residue of his predecessor's term.

(6) Section two of this Act shall not apply to or in respect of a member appointed under this section.

(7) The alteration in the number of members of the board effected by this section shall not prejudice or affect the continuity of the body corporate constituted under section one of this Act.

(c) by omitting from section three the word "three" and by inserting in lieu thereof the word "five."

Sec. 3.

(Quorum.)

Amendment of
Act No. 65,
1902.New sec. 16.
Application
of fees and
penalties.

6. The Poisons Act, 1902, is amended by inserting after section fifteen the following new section:—

16. (1) The fees and penalties payable under this Act or any regulations made thereunder shall be paid to the registrar of the Pharmacy Board.

(2)

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(2) The amount of such fees and penalties shall be paid by the registrar to the Colonial Treasurer and shall be carried to the Consolidated Revenue Fund.
