

PHARMACY ACT.

Act No. 48, 1964.

An Act to regulate the carrying on of the business of a pharmacist; to authorise friendly societies and trading and rural societies established under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, to carry on the business of a pharmacist in certain circumstances; to repeal the Pharmacy Act, 1897, and certain other Acts; to amend the Friendly Societies Dispensaries Enabling Act, 1945, the Co-operation, Community Settlement, and Credit Act, 1923, and certain other Acts; and for purposes connected therewith. [Assented to, 7th December, 1964.]

Elizabeth II,
No. 48, 1964

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Pharmacy Act, 1964".

Short title
and com-
mencement.

(2)

No. 48, 1964

(2) Except as provided in subsection three of this section, this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) The provisions of this Act relating to the nomination, election and appointment of members of the Board and to their holding office as such members shall commence upon the day upon which Her Majesty's assent to this Act is signified, and for the purposes of the constitution of the first Board the expression "pharmacists" in paragraph (a) of subsection two of section four of this Act means pharmacists registered under the Pharmacy Act, 1897-1957.

Repeal
and
savings.

2. (1) The several Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All persons who, immediately before the commencement of this Act, were registered pharmacists under the Pharmacy Act, 1897-1957, shall be deemed to be registered under this Act.

(3) The Register of Pharmacists kept under the Pharmacy Act, 1897-1957, shall, subject to the provisions of this Act, be deemed to be the Register of Pharmacists under this Act.

(4) A reference in any other Act or instrument to a registered pharmacist or a pharmacist registered under the Pharmacy Act, 1897, or any amendment thereof, shall be read and construed as a reference to a practising pharmacist registered under this Act.

(5) The registrar and every officer appointed under the Pharmacy Act, 1897-1957, and holding office immediately before the commencement of this Act, shall be deemed to have been appointed as the registrar or as officers, as the case may be, under section eleven of this Act.

3.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

Interpre-
tation.

“Board” means the Pharmacy Board of New South Wales constituted under the provisions of this Act.

“Business of a pharmacist” means the business of a chemist, pharmaceutical chemist, pharmacist, druggist, homoeopathic chemist, dispensing chemist or dispensing druggist.

“Medical practitioner” means a person registered under the Medical Practitioners Act, 1938, as amended by subsequent Acts.

“Pharmacist” means a person registered under this Act.

“Practising pharmacist” means a pharmacist described in the register as a practising pharmacist.

“Prescribed” means prescribed by this Act, or by the regulations.

“Register” means the Register of Pharmacists under this Act.

“Registrar” means the registrar appointed under the provisions of this Act.

“Regulations” means regulations made under this Act.

4. (1) There shall be a Board, to be called the Pharmacy Board of New South Wales, which shall, in addition to exercising and performing the powers, authorities, duties and functions conferred or imposed upon it by this Act, administer the Poisons Act, 1952, as amended by subsequent Acts.

Pharmacy
Board of
New South
Wales.

(2) The Board shall consist of eight members who shall be appointed by the Governor. Of the members so appointed—

(a) four shall be pharmacists elected by pharmacists in the prescribed manner;

(b) one shall be the Under Secretary, Department of Public Health, or a person from time to time nominated by him;

(c)

Pharmacy Act.**No. 48, 1964**

- (c) one shall be a person nominated by the Senate of the University of Sydney;
- (d) one shall be a person nominated by the Friendly Societies' Association of New South Wales;
- (e) one shall be a barrister or solicitor nominated by the Minister.

(3) The members of the Board shall hold office for a period of three years from the date of their appointment and shall be eligible for re-appointment.

(4) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of members of the Board, and such members shall not in their capacity as members of the Board be subject to the provisions of any such Act.

(5) Each member of the Board who is not a public servant shall be paid such fees as may be prescribed.

**President
of Board.**

5. (1) One of the members referred to in paragraph (a) of subsection two of section four of this Act shall be appointed as president of the Board.

(2) The president, when present, shall preside at all meetings of the Board.

(3) In the absence of the president from any meeting, another member, chosen for the purpose by the majority of members present and voting, shall preside.

(4) The president or any member presiding at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

**Vacation
of office.**

6. (1) A member of the Board shall be deemed to have vacated his office if—

(a) he dies;

(b)

- (b) he resigns his office by writing under his hand No. 48, 1964 addressed to the Governor;
- (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) he is convicted in New South Wales of a felony or of a misdemeanour or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or a misdemeanour;
- (e) he is absent from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Board;
- (f) he is removed from office by the Governor; or
- (g) he ceases to hold the qualification by virtue of which he was appointed, nominated or elected as a member.

(2) A person of or above the age of seventy years shall not be appointed as a member of the Board, and any member of the Board shall upon his attaining the age of seventy years be deemed to have vacated his office as such member.

7. (1) Where a casual vacancy occurs in the office of a member of the Board, a person shall be appointed by the Governor to fill the vacant office. Filling of casual vacancies.

(2) Where the casual vacancy occurs in the office of a member appointed—

- (a) pursuant to paragraph (a) of subsection two of section four of this Act, the person appointed to the vacant office shall be a pharmacist nominated by the Board;
- (b) pursuant to paragraph (c), (d) or (e) of subsection two of section four of this Act, the person appointed to the vacant office shall be appointed on the same nomination

No. 48, 1964

nomination as his predecessor and, in the case of a vacancy in the office of a member appointed pursuant to the said paragraph (e), the person appointed to the vacant office shall be a barrister or solicitor.

(3) A member appointed under this section shall hold office for the residue of his predecessor's term of office, and shall, if otherwise qualified, be eligible for re-appointment.

Procedure
at meetings
of Board.

8. (1) At any meeting of the Board, five members shall constitute a quorum.

(2) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Board.

Defects in
appoint-
ments not
to invali-
date pro-
ceedings of
the Board.

9. (1) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Board, and as if the Board had been properly and fully constituted.

Protection
of the
Board and
others from
liability.

10. No matter or thing done or suffered by the Board, or by any member of the Board, or by any person appointed or deemed to have been appointed under section eleven of this Act, bona fide in the execution, or intended execution of this Act, or the exercise or discharge, or intended exercise or discharge, of any of its or his powers, authorities, duties or functions under this Act shall subject the Board, or any member of the Board, or other such person, or the Crown, to any liability in respect thereof.

11.

11. The Governor may from time to time, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint a registrar, inspectors and such other officers as he thinks fit for the purposes of this Act. No. 48, 1964
Appoint-
ments.

12. (1) The Board shall keep a register, to be called the Register of Pharmacists. Register of
Pharmacists.

(2) The registrar shall enter in the register, in the prescribed manner and on payment of the prescribed fee—

- (a) the full name and address of every pharmacist;
- (b) the date of his registration;
- (c) particulars of the qualification or qualifications in respect of which his registration is granted;
- (d) particulars of such further or additional qualifications possessed by him as the Board may direct to be entered in the register;
- (e) where a person is entitled, under subsection two of section thirteen, or under section fourteen, fifteen or sixteen, of this Act, to be described in the register as a practising pharmacist, that description of him;
- (f) particulars of any certificate, diploma, membership, degree, license, letters, testimonial, or other title, status, document or description which he is authorised by the Board to use in relation to himself as a pharmacist or the carrying on of the business of a pharmacist by him;
- (g) such other particulars and matters as are directed or authorised by this Act or the regulations to be entered therein.

(3) The Board may subject to the provisions of this Act make such alterations and additions to the register as are necessary to correct any errors in the particulars entered
in

No. 48, 1964 in the register and without limiting the generality of the foregoing provisions of this subsection shall cause to be removed from the register the name of—

- (a) every deceased pharmacist;
- (b) every pharmacist who has ceased to possess or does not possess the qualifications in respect of which he was registered; and
- (c) every pharmacist who is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts.

(4) Every pharmacist shall, within one month after changing his address as appearing in the register, give written notice to the Board of his new address.

(5) The register shall at all reasonable times be open to inspection at the office of the Board by any person on payment of the prescribed fee.

(6) The registrar shall, as soon as practicable in each year, cause to be printed and published a list of the names and addresses of all pharmacists corrected up to the thirty-first day of December of the last preceding year.

Qualifica-
tions for
registra-
tion—New
South
Wales
graduates.

13. (1) Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist if he has passed through a regular graded course in pharmacy of at least three years' duration at the University of Sydney or at any other prescribed university in New South Wales and has received from that university after due examination a degree or diploma in pharmacy.

(2)

(2) A pharmacist registered under subsection one of No. 48, 1964 this section, who satisfies the Board that he either—

- (a) has, for a period of not less than twelve months after having qualified for his degree or diploma, served in New South Wales or the Australian Capital Territory as an assistant—
 - (i) in the business of a pharmacist keeping open shop for the purpose of dispensing and compounding medical prescriptions;
 - (ii) to a pharmacist in charge of a dispensary (not forming part of a business referred to in subparagraph (i) of this paragraph) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;
 - (iii) to a pharmacist who is also the managing director or general manager of a company where such assistantship is served in open shop kept by such company for the purpose of dispensing and compounding medical prescriptions; or
 - (iv) to a pharmacist in charge of a dispensary in an open shop kept by a company for the purpose of dispensing and compounding medicines; or
- (b) has, outside New South Wales and the Australian Capital Territory, had, for a period of not less than twelve months after having qualified for his degree or diploma, experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales,

shall be entitled to be described in the register as a practising pharmacist.

(3)

No. 48, 1964

(3) In paragraph (a) of subsection two of this section "pharmacist" includes a person registered as a pharmacist under the law in force relating to the registration of pharmacists in the Australian Capital Territory.

Prescribed
foreign
qualifica-
tions for
registration.

14. Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist and to be described in the register as a practising pharmacist if he holds the prescribed qualification granted by any prescribed university, college, institute or other body in any place outside New South Wales and has either within or outside New South Wales had, for a period of not less than twelve months, experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him satisfactorily to carry on the business of a pharmacist in New South Wales.

Other
foreign
qualifica-
tions for
registration.

15. Subject to section seventeen of this Act, a person shall be entitled to be registered as a pharmacist and to be described in the register as a practising pharmacist if he—

- (a) holds a qualification granted by any university, college, institute or other body in any place outside New South Wales (not being a prescribed qualification referred to in section fourteen of this Act) which qualification is recognised by the Board as furnishing such evidence of knowledge and skill in pharmacy that, if he satisfies the requirements of paragraphs (b), (c) and (d) of this section, he would have the requisite knowledge and skill for the efficient carrying on of the business of a pharmacist in New South Wales;
- (b) satisfies the University of Sydney, or any other prescribed university in New South Wales, by examination or otherwise of his proficiency in each of the following subjects, namely, chemistry, practical chemistry, botany and materia medica, or such other subject as may be prescribed in lieu of any such subject, and such additional subjects as may be prescribed;

(c)

- (c) has passed an examination in the subject of practical pharmacy before examiners appointed by the Senate of the University of Sydney or the governing body of any other prescribed university in New South Wales; and
- (d) has either within or outside New South Wales had, for a period of not less than twelve months, experience in the dispensing and compounding of medical prescriptions that the Board regards as sufficient to enable him to carry on satisfactorily the business of a pharmacist in New South Wales.

16. Subject to section seventeen of this Act a person shall be entitled to be registered as a pharmacist and to be described in the register as a practising pharmacist if he—

- (a) has passed a preliminary examination as prescribed by regulation under the Pharmacy Act, 1897-1957, and had, before the twelfth day of June, one thousand nine hundred and fifty-nine, commenced to serve as an apprentice in the business of a pharmacist in New South Wales keeping open shop for the purpose of dispensing and compounding medical prescriptions, or as an apprentice to a pharmacist in charge of a dispensary of a Friendly Society, or as an apprentice to a 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 as an apprentice to a pharmacist in charge of a dispensary in an open shop kept by a company in New South Wales for the purpose of dispensing and compounding medicines :

Provided that the Board may, upon application made to the Board in the prescribed manner and form and supported by such evidence as the Board requires, accept in lieu of any part of the requirements specified in the foregoing provisions of this paragraph

Qualifications for registration
—New South Wales apprentices.

No. 48, 1964

paragraph a course of training in the Australian Capital Territory which in the opinion of the Board is of a standard substantially similar to the standard fixed by or under this Act for that part of those requirements;

- (b) has satisfactorily served under such apprenticeship for a period of not less than three years;
- (c) has attended one course of lectures acknowledged by the Board in each of the following subjects, namely, chemistry, practical chemistry, botany and materia medica, and has also passed examinations in each of the said subjects at the University of Sydney or some school or college of pharmacy recognised by the Board; and
- (d) has passed an examination before examiners appointed by the Senate of the University of Sydney in the subject of practical pharmacy.

Additional
requirements for
registration.

17. (1) A person shall not be entitled to be registered as a pharmacist pursuant to section thirteen, fourteen, fifteen or sixteen of this Act unless—

- (a) the Board is satisfied that he has attained the age of twenty-one years and is of good character; and
- (b) his application for registration is accompanied by the prescribed registration fee.

(2) Upon registering a person as a pharmacist pursuant to section thirteen, fourteen, fifteen or sixteen of this Act, the Board shall issue to him a certificate of registration in the prescribed form.

Apprentices
to be
allowed
to attend
lectures
and
examina-
tions.

18. It shall be the duty of a practising pharmacist to allow his apprentices during the last two years of their apprenticeship to attend the lectures and examinations mentioned in section sixteen of this Act, and any failure to comply with the requirements of this section shall be deemed to be a breach by the practising pharmacist of the articles of apprenticeship.

19.

19. (1) Every pharmacist shall, on or 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.

No. 48, 1964
Roll fee.

(2) Together with the roll fee, the pharmacist shall furnish particulars of his address for entry in the register and such other particulars as may be prescribed.

(3) If a 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 letter addressed to him at his address as appearing in 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 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 or has been removed from the register under this section or section eight of the Pharmacy Act, 1897-1957, the Board shall upon application in writing restore his name to the register upon payment of the prescribed fee.

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

(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 not registered as a pharmacist under this Act.

No. 48, 1964 20. (1) Where the Board is satisfied after inquiry that a pharmacist—

Removal
of name
on account
of mis-
conduct.

- (a) has been convicted in New South Wales of a felony or misdemeanour or has been convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour; or
- (b) has been guilty of misconduct in a professional respect,

the Board may order that his name be removed from the register or that his registration be suspended for such period, not exceeding twelve months, as the Board determines, or may caution or reprimand him.

(2) Without limiting the meaning of the expression “misconduct in a professional respect” a pharmacist shall be guilty of such misconduct who—

- (a) is an habitual drunkard;
- (b) is addicted to any deleterious drug; or
- (c) carries on the business of a pharmacist for or on behalf of some person, company, corporation or partnership, who or which is not entitled to carry on such a business.

(3) In the case of a conviction referred to in paragraph (a) of subsection one of this section, the Board shall not direct that a person’s name be removed from the register or that his registration be suspended on account thereof if, having regard to the nature of the offence or the circumstances under which it was committed, the Board is of opinion that it does not render such person unfit in the public interest—

- (a) to be registered as a pharmacist; or
- (b) without limiting the generality of paragraph (a) of this subsection, where such person is a practising pharmacist, to carry on the business of a pharmacist.

(4) The Board, in making any inquiry under this section, shall sit as in open court, and the person charged shall be afforded an opportunity of defence either in person or by counsel, solicitor or agent authorised in writing.

(5)

(5) Every person, other than a member of the police force or a member of the public service in his capacity as such member, who makes a complaint to the Board in respect of any matter referred to in subsection one of this section shall deposit with the Board the sum of five pounds at the time of lodging his complaint. No. 48, 1964

If after considering the complaint the Board is of opinion that the complaint is vexatious or frivolous in its nature it shall so declare, and thereupon the sum so deposited shall be forfeited.

In the absence of such declaration the sum so deposited shall be refunded to the complainant.

(6) Whenever the registration of a pharmacist is suspended under the provisions of this section, the registrar shall enter in the register a memorandum of that fact and of the date and cause thereof.

21. (1) An order made by the Board under subsection one of section twenty of this Act for the removal of the name of a pharmacist from the register or the suspension of the registration of a pharmacist shall not take effect until the expiration of a period of one month after the date on which notification in writing of the order is sent by post by the registrar to the pharmacist at his address as appearing in the register. Effect of Board's order.

(2) If within such period the pharmacist gives due notice of appeal to a District Court as provided in section twenty-two of this Act, the order of the Board shall not take effect unless the order of the Board is confirmed by the District Court or the appeal is for any reason dismissed by the District Court and, in the case of an order of the Board for the removal of the name of a pharmacist from the register, until the expiration of a period of one month after such confirmation or dismissal.

(3)

No. 48, 1964

(3) Where an order of the Board for the suspension of the registration of a pharmacist is confirmed by the District Court or an appeal against such order is dismissed, the period of suspension named in the order appealed from shall commence upon the day on which the court confirms the order or dismisses the appeal, as the case may be.

Appeal
against
orders of
the Board.

22. (1) Any person aggrieved by an order for the removal of his name from the register or the suspension of his registration or by any refusal or failure to register his name in the register may, within one month after the date on which notice is given to him by the registrar that his name has been so removed or his registration suspended, or within three months after the date on which he applied to be registered, as the case may be, appeal against the removal or suspension or the refusal or failure, as the case may be, to the District Court having jurisdiction in the district within which such person resides or carries on business as a pharmacist.

(2) Every such appeal shall be in the nature of a rehearing and shall be made in accordance with rules of court.

(3) The District Court may make such order as it deems fit and such order shall be final, and without appeal and the Board shall give effect thereto.

Surrender
of certifi-
cates of
registration.

23. Any person whose name is removed from the register, or whose registration is suspended, pursuant to the provisions of this Act, shall within fourteen days from the notification to him by the registrar of such removal or suspension surrender to the Board any certificate of registration issued to him by the Board and held by him.

Any person who fails without reasonable cause to do so shall be guilty of an offence against this Act and liable to a penalty not exceeding two pounds for every week during which such offence continues.

24.

24. Where the name of any person has been removed from the register (otherwise than under section nineteen of this Act or section eight of the Pharmacy Act, 1897-1957), or the registration of any person has been suspended, his name shall not be restored to the register, and the suspension of such person shall not be terminated before the period for which the suspension was imposed, except by direction of the Board or by order of a court of competent jurisdiction. The Board may, if it thinks fit in any case, direct the registrar, without fee, to restore to the register any name removed therefrom or on payment of such fee, not exceeding the prescribed registration fee as the Board may, from time to time direct, and the registrar shall restore the name accordingly.

No. 48, 1964
Restoration
of name
to register.

25. (1) Neither a person who is not a practising pharmacist, nor a corporation nor a body of persons unincorporated (not being a partnership consisting only of pharmacists) shall carry on (whether as owner or otherwise) the business of a pharmacist in open shop, or have a pecuniary interest, direct or indirect, in any such business.

Persons
other than
practising
pharmacists
not to have
interest in
pharmacists'
businesses.

(2) Subsection one of this section shall not operate to prohibit—

(a) a person, corporation or body of persons unincorporated from having a pecuniary interest, direct or indirect, in any such business—

(i) in the case of a person, by reason of his being employed in the carrying on of the business; or

(ii) by reason of his or its being the grantee under a bill of sale given in respect of such business; or

(iii) in such other circumstances as may be prescribed; or

(b) a natural person who is not a pharmacist and who, either alone or as a partner of any other person, was immediately before the commencement of this

Act

No. 48, 1964

Act carrying on the business of a pharmacist in not more than one open shop from continuing after the commencement of this Act to carry on such business where the carrying on of such business is so continued in the open shop (in this paragraph referred to as the "original open shop") in which it was being carried on immediately before such commencement or, in lieu of that original open shop, with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop; or

- (c) a person, corporation or body of persons unincorporated who or which immediately before the commencement of this Act had a pecuniary interest, direct or indirect, in the business of a pharmacist carried on in open shop (other than an interest by reason of the carrying on of such business by such person, corporation or body of persons) from continuing to have after such commencement that same interest in that same business; or
- (d) a company, or association of persons, incorporated or unincorporated (not being a partnership or a friendly society) which was immediately before the commencement of this Act carrying on the business of a pharmacist in an open shop (in this paragraph referred to as an "original open shop") in which the company or association of persons was immediately before the prescribed date carrying on such business from continuing after such commencement to carry on such business—
 - (i) in that original open shop or, in lieu of that original open shop—
 - (a) in another open shop in which the company or association of persons immediately before such commencement was entitled under the Pharmacy Act, 1897-1957, to carry on, and was carrying on, such business; or
 - (b)

- (b) with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop; and
- (ii) without any alteration in the name under which the business was being carried on immediately before the prescribed date; or
- (e) a person who is not a pharmacist and who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in more than one open shop in which he was immediately before the prescribed date carrying on such business from continuing after such commencement to carry on such business in those open shops or, in lieu of any such open shop (in this paragraph referred to as an "original open shop")—
- (i) in another open shop in which immediately before such commencement he was entitled under the Pharmacy Act, 1897-1957, to carry on, and was carrying on, such business; or
- (ii) with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop.

In this subsection "prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty.

(3) Any person or corporation who or which contravenes any provision of this section shall be guilty of an offence against this Act.

(4) If any unincorporated association contravenes any provision of this section the members of the board of management or other controlling authority thereof shall be severally guilty of an offence against this Act.

(5)

No. 48, 1964

(5) This section shall not operate to prevent any person, corporation or body of persons unincorporated who or which has entered into possession of the business of a pharmacist under a bill of sale, from carrying on subject to section twenty-seven of this Act such business in open shop during a period not exceeding three months after the date upon which such person, corporation or body of persons so entered into possession.

This subsection shall extend to and in respect of any person, corporation or body of persons unincorporated who or which has so entered into possession before the commencement of this Act but in the case only of a person the period of three months referred to in this subsection shall commence to run upon the date of such commencement.

Practising
pharmacists
not to carry
on business
in more than
one shop.

26. (1) A practising pharmacist shall not, either alone or as a partner of any other person, carry on (whether as owner or otherwise) the business of a pharmacist in more than one open shop.

(2) Notwithstanding subsection one of this section not more than three practising pharmacists in partnership together may as partners in that partnership, if none of them is a partner in any other partnership carrying on the business of pharmacist, carry on the business of a pharmacist in not more than three open shops.

(3) Subsection one of this section shall not operate to prohibit a pharmacist who, either alone or as a partner of any other person, was immediately before the commencement of this Act carrying on the business of a pharmacist in more than one open shop in which such pharmacist was immediately before the prescribed date carrying on such business from continuing after such commencement to carry on (whether as owner or otherwise) such business in those open shops or, in lieu of any such open shop (in this subsection referred to as an "original open shop")—

(a) in another open shop in which he was immediately before such commencement entitled under the Pharmacy Act, 1897-1957, to carry on, and was carrying on, such business; or

(b)

- (b) with the approval in writing of the Minister in another open shop which is distant not more than ten miles from that original open shop. No. 48, 1964

In this subsection "prescribed date" means the twenty-seventh day of November, one thousand nine hundred and forty.

(4) A pharmacist who contravenes the provisions of subsection one of this section shall be guilty of an offence against this Act.

27. (1) The business of a pharmacist carried on in open shop and any dispensary (not forming part of such a business) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner, shall be in charge of a practising pharmacist who shall personally superintend the carrying on of the said business or the said dispensary. Practising pharmacist to be in charge of every open shop and dispensary.

(2) If the business of a pharmacist is carried on in open shop, or a dispensary is carried on, in contravention of subsection one of this section, the owner of the business and if the practising pharmacist in charge of the business or dispensary is by the terms of his employment required to be in charge of the business or dispensary at the time of the contravention, such practising pharmacist shall be guilty of an offence against this Act.

(3) If any owner who contravenes subsection one of this section is a body of persons unincorporated, the members of the board of management or other controlling authority thereof shall be severally guilty of an offence against this Act.

(4) It shall be a sufficient defence to a prosecution of an owner for a contravention of subsection one of this section if he proves to the satisfaction of the court that he used all due diligence to prevent the contravention.

28. No person other than a practising pharmacist or a person acting under the personal superintendence of a practising pharmacist shall dispense or compound any medicine on the order or prescription of a medical practitioner. Medicines to be dispensed only by or under the superintendence of practising pharmacists.

Nothing in this section shall operate to prevent a medical practitioner from dispensing medicine in the ordinary course of his practice as a medical practitioner.

No. 48, 1964

Business of
deceased
pharmacist
may be
carried on
temporarily.

29. Nothing in this Act shall prevent the executor of the will, or the administrator or trustee of the estate, of any deceased person who was carrying on the business of a pharmacist in open shop on the day of his death, or a person entitled under the will or in the estate of any such deceased person, from continuing subject to section twenty-seven of this Act to carry on such business under the name of such deceased person for a period of twelve months after the date of death of such deceased person, or after the day appointed pursuant to subsection two of section one of this Act, whichever is the later, or for such further period as the Minister may allow in writing in any particular case.

Pharmacist
to use only
registered
qualifica-
tions.

30. (1) A pharmacist shall not use any certificate, diploma, membership, degree, license, letters, testimonial or other title, status, document or description in relation to himself as a pharmacist or, in the case of a practising pharmacist, in relation to the carrying on of the business of a pharmacist by him, other than—

- (a) the particulars (if any) which the Board has authorised pursuant to paragraph (f) of subsection two of section twelve of this Act to be entered in connection with his name in the register; or
- (b) in the case of a pharmacist, other than a practising pharmacist, the description of pharmacist, or in the case of a practising pharmacist the description of chemist, pharmaceutical chemist, pharmacist, druggist, homoeopathic chemist, dispensing chemist, dispensing druggist, member of the Pharmaceutical Society of New South Wales or any abbreviation of any such expression.

(2) Any person other than a pharmacist who poses as a pharmacist or assumes or uses the title of pharmacist, or any person other than a practising pharmacist who poses as a practising pharmacist or assumes or uses the title of chemist, pharmaceutical chemist, pharmacist, druggist, homoeopathic chemist, dispensing chemist, dispensing druggist or other words whatsoever of similar meaning or uses or exhibits

exhibits any title, term, sign or symbol which may be construed to mean that he is qualified to perform the duties of a pharmacist shall be guilty of an offence against this Act : No. 48, 1964

Provided that this subsection shall not apply to a person, corporation or body of persons unincorporated carrying on a business in accordance with the provisions of subsection five of section twenty-five of this Act or to a person continuing a business under the name of a deceased person in accordance with the provisions of section twenty-nine of this Act.

A corporation carrying on the business of a pharmacist in an open shop shall not be guilty of an offence against this subsection by reason only that it describes itself in connection with the carrying on of such business as "chemists" or as "chemists and druggists" or as "dispensing chemists".

31. A person shall be guilty of an offence against this Act if he—

- Automatic vending machines for sale of drugs, etc., prohibited.
- (a) installs in an open shop in which the business of a pharmacist is carried on any automatic machine for the sale or supply of any drug, medicine, or medicinal preparation, or allows, permits or suffers any such automatic machine to be so installed; or
 - (b) sells or supplies any drug, medicine or medicinal preparation by means of any automatic machine installed in such a shop.

32. (1) For the purpose of ascertaining whether the provisions of this Act or any regulations are being or have been complied with an inspector appointed under section eleven of this Act or person authorised in writing in that behalf (either generally or in any particular case) by the president of the Board may at all reasonable times enter any part of any premises in which the business of a pharmacist is carried on. Power of entry of inspectors and authorised persons.

(2) Every person who wilfully delays or obstructs any inspector or authorised person in the exercise of his powers under this section shall be guilty of an offence against this Act.

33.

No. 48, 1964 **33.** Any registrar or other person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, shall be guilty of an offence against this Act and liable to imprisonment for a period not exceeding twelve months.

False
entries
in the
register.

**Board may
summon
and
examine
witnesses.** **34.** (1) The president of the Board may by summons under his hand require any person to attend and remain in attendance at any inquiry held by the Board pursuant to section twenty of this Act.

Any such summons may be served by leaving it with the person to whom it is addressed or with some person apparently of or above the age of fourteen years resident at the last known address of the person to whom it is addressed.

If any person served with a summons in accordance with the provisions of this subsection refuses or fails to attend or remain in attendance in accordance with the requirements thereof, without being excused from so attending or remaining in attendance by the president of the Board, such person shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

(2) The Board may examine any person upon oath, or take a solemn declaration from any person for the purposes of this Act; and if any person wilfully makes any false statement upon such examination or in such declaration, or utters or attempts to utter, or put off as true before the Board, any false, forged or counterfeit certificate, diploma, degree, license, letters, testimonial or other document or writing, he shall be guilty of an offence against this Act and liable to imprisonment for a period not exceeding twelve months.

Penalties. **35.** (1) Every person who is guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty not exceeding one hundred pounds.

(2)

(2) All informations for offences under this Act, **No. 48, 1964** shall be laid by the registrar, or an inspector appointed under section eleven of this Act or some other person appointed by the Board for that purpose (either generally or in any particular case), or a member of the police force.

(3) All proceedings for an offence under this Act or the regulations may be heard and determined in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

36. (1) All fees payable under this Act shall be paid to the registrar and shall be paid by the registrar into the Treasury to be carried to the Consolidated Revenue Fund. **Fees.**

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

37. A document purporting to be a certificate under the hand of the registrar, and stating any one or more of the following matters :— **Evidence.**

- (a) that any person was or was not on any date or during any period mentioned in the certificate registered under this Act; or
- (b) that on any date or during any period mentioned in the certificate the registration of any person was suspended,

shall in all courts and before all persons and bodies authorised by law to receive evidence, be prima facie evidence of the facts stated.

38. (1) The Governor may make regulations for or with respect to— **Regulations.**

- (a) the proceedings of the Board;
- (b) the election of members of the Board;
- (c) the manner in which a complaint alleging misconduct in a professional respect may be preferred to the Board;

(d)

No. 48, 1964

- (d) the fees payable under this Act;
- (e) advertising by persons carrying on the business of a pharmacist in open shop;
- (f) the forms required for the purposes of this Act;
- (g) the copies of Acts and regulations and the books of reference to be kept in any open shop in which the business of a pharmacist is carried on and in any dispensary (not forming part of such a business) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;
- (h) the equipment and appliances to be installed in every open shop in which the business of a pharmacist is carried on and in every dispensary (not forming part of such a business) in which medicines are dispensed or compounded on the order or prescription of a medical practitioner;
- (i) all matters necessary or convenient for carrying out or giving effect to the provisions of this Act.

(2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

39. (1) The Friendly Societies Dispensaries Enabling Act, 1945, as amended by subsequent Acts, is amended—

Amendment
of Act No.
11, 1945.

(a) by omitting from subsection one of section two the words "section eighteen of the Pharmacy Act, 1897-1946" and by inserting in lieu thereof the words "section twenty-seven of the Pharmacy Act, 1964";

Sec. 2.
(Dispensaries—
open
shop.)

(b) by omitting from the same subsection the symbol and figures "—1948" and by inserting in lieu thereof the words ", as amended by subsequent Acts,";

(c) by inserting next after subsection two of the same section the following new subsections :—

(2A) Subject to this section and to section twenty-seven of the Pharmacy Act, 1964, but notwithstanding anything elsewhere contained in that Act or in the Friendly Societies Act, 1912-1958, a friendly society may, whether or not it is entitled to exercise the powers and authorities conferred by the foregoing provisions of this section in respect of a dispensary, carry on the business of a pharmacist in any open shop without any limitation as to the persons or classes of persons for whom any medicines may be dispensed by it or to whom any medicines or surgical or medical appliances, requisites or comforts may be sold or supplied.

(2B) A friendly society shall not exercise the powers and authorities conferred on it by subsection (2A) of this section unless it satisfies the Minister administering the Pharmacy Act, 1964,—

(a) that the net profits derived from the carrying on of the business of a pharmacist by it pursuant to that subsection will be applied solely to the provision of benefits to the members of such society other than the payment of moneys to such members by way of dividends or shares; and

(b)

No. 48, 1964

(b) that the establishment of any such business pursuant to that subsection is warranted in the interests of the members of the friendly society or the public or of both the members of the friendly society and the public,

and that Minister has approved in writing of the friendly society carrying on such business.

(2) The Friendly Societies Dispensaries Enabling Act, 1945, as amended by subsequent Acts and by this Act, may be cited as the Friendly Societies Dispensaries Enabling Act, 1945-1964.

Amendment
of Act No.
1, 1924.

40. (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended—

New sec. 8A.

(a) by inserting next after section eight the following new section :—

Power to
carry on
business
as a
pharmacist
in open
shop.

8A. Subject to section twenty-seven of the Pharmacy Act, 1964, but notwithstanding anything elsewhere contained in that Act or this Act, a rural society may, with the approval in writing of the Minister administering that Act, carry on the business of a pharmacist in not more than one open shop.

New sec.
10B.

(b) by inserting next after section 10A the following new section :—

Power to
carry on
business
as a
pharmacist
in open
shop.

10B. Subject to section twenty-seven of the Pharmacy Act, 1964, but notwithstanding anything elsewhere contained in that Act or this Act, a trading society may, with the approval in writing of the Minister administering that Act, carry on the business of a pharmacist in not more than one open shop.

(2) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923-1964.

(Conse-
quential.)

(3) The Co-operation (Amendment) Act, 1964, is amended by omitting subsection two of section one.

SCHEDULE.

Discharged Servicemen's Badges Act.

599

SCHEDULE.**No. 48, 1964****Sec. 2.**

No. of Act.	Short title.	Extent of Repeal.
1897, No. 7 ..	Pharmacy Act, 1897	The whole.
1911, No. 3 ..	Pharmacy (Amendment) Act, 1911.	The unrepealed portion.
1937, No. 35 ..	Statute Law Revision Act, 1937	So much of the Second Schedule as amended Act No. 7, 1897.
1940, No. 54 ..	Pharmacy (Amendment) Act, 1940.	The unrepealed portion.
1946, No. 54 ..	Economic Stability and War-time Provisions Continuance Act, 1946.	Section nineteen.
1952, No. 8 ..	Pharmacy (Amendment) Act, 1952.	The whole.
1954, No. 21 ..	Pharmacy (Amendment) Act, 1954.	The whole.
1957, No. 20 ..	Medical Practitioners (Amendment) Act, 1957.	Section six.