

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1931.

A BILL

To make further provision as to the carrying on of the business of pharmacists; to provide for the imposition of an annual roll fee; to confer certain further powers on the Pharmacy Board of New South Wales; to amend the Pharmacy Act, 1897, in certain respects; and for purposes connected therewith.

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:—

1. (1) This Act may be cited as the "Pharmacy Short title. (Amendment) Act, 1931," and shall be read with the Pharmacy Act, 1897, as amended by subsequent Acts.

(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, 1897-1931.

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

Commencement.

2. (1) The Principal Act is amended by inserting next after section three the following new section :—

Amendment of Act No. 7, 1897. New s. 3A.

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

Interpretation.

“ Board ” means the Pharmacy Board of New South Wales.

“ Dentist ” means a dentist registered under the Dentists Acts, 1912-1927.

“ Licensed ” means licensed under the seal of the Board.

“ Medical practitioner ” means a legally qualified medical practitioner registered under the Medical Practitioners Act, 1912.

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

“ Recognised certificate ” means a certificate, diploma, membership, degree, license, letters testimonial, or other title or document granted by some university, college, Board of Pharmacy, or other public institution in a British possession or foreign country and which is recognised by the Board—

(a) as entitling the holder thereof to practice pharmacy or as a pharmaceutical chemist or a chemist and druggist in such possession or country; and

(b) as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of pharmacy.

“ Registered ” means registered by the Board.

“ Registered

“Registered pharmacist” means a pharmacist registered under this Act.

“Veterinary surgeon” means a veterinary surgeon registered under the Veterinary Surgeons Act, 1923.

3. The Principal Act is further amended—

Further amend-
ment of Act
No. 7, 1897.

(a) by inserting at the end of section four the following new subsection :—

(Sec. 4 (b).)

(2) Any person who wilfully makes any false statement or declaration or utters or attempts to utter or put off as true before the Board any false, forged, or counterfeit certificate, diploma, license, letters testimonial, or other document shall be guilty of an offence against this Act. (Power to examine witnesses.)

(b) (i) by omitting from section five the words “Colonial Treasurer” and “said Treasurer” and by inserting in lieu thereof the word “Minister” ; Sec. 5. (Board to furnish reports of the proceedings.)

(ii) by inserting in the same section after the words “preceding year” the words “comprising the accounts of the Board for that year.”

4. The Principal Act is further amended by omitting section six and by inserting in lieu thereof the following section :—

Further amend-
ment of Act
No. 7, 1897, new
s. 6.

6. (1) There shall be a register of pharmacists to be kept as prescribed, and which shall be open at all reasonable times for public inspection on the payment of the prescribed fee. Register of pharmacists.

(2) Upon such register shall be entered—

(a) the names of all persons registered as pharmacists at the commencement of the Pharmacy (Amendment) Act, 1931 ;

(b) the name of any person who is declared by the Board after such commencement to be entitled to be registered as a pharmacist.

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No entry shall be made of the name of any person referred to in paragraph (b) of this subsection save upon payment of the prescribed registration fee.

(3) The registrar shall enter in the register—

- (a) the full name and address of any such person ;
- (b) the date of registration and description of the qualifications in respect of which such registration is granted ;
- (c) such other particulars as are prescribed.

(4) Every pharmacist shall, in or before the month of October in each year, pay to the registrar a roll fee of ten shillings for the following calendar year.

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

(6) If any pharmacist does not pay the roll fee in or before the month of October in any year the Board may remove his name from the register as from the thirty-first day of December following.

The name of a pharmacist shall not be removed from the register under this subsection unless the roll fee is still unpaid at the expiration of one month after the posting of a registered letter addressed to him at the address appearing in the register notifying him that it is the intention of the Board so to remove his name.

(7) 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 the prescribed fee.

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

(8) 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.

(9)

(9) The registrar shall in the month of January in each year transmit a copy of the register certified to be correct up to the thirty-first day of December of the preceding year to the Minister.

(10) A copy of the register signed by the president or the registrar or a printed copy purporting to be so signed shall be prima facie evidence in all legal proceedings that the persons mentioned as registered pharmacists are registered pharmacists for the year therein stated, and that the persons whose names are therein contained and no others were pharmacists registered under this Act at the time when the said copy or printed copy of the register purported to have been so signed.

(11) In any proceedings against any person for a contravention of any provision of this Act, and in any other proceedings or matter of any kind, a certificate in the prescribed form under the hands of the president and the registrar, of whose signatures judicial notice shall be taken, may be received in evidence to prove the fact that the person mentioned therein was or was not on the date mentioned in the certificate registered as a pharmacist under this Act.

(12) This section shall apply to persons who were registered as pharmacists at the commencement of the Pharmacy (Amendment) Act, 1931, as well as to persons registered as pharmacists after such commencement.

5. The Principal Act is further amended—

Further amendment of Act No. 7, 1897.

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

New ss. 8, 8A.

8. (1) The Board may refuse to register as a pharmacist or may remove from the register any person who—

Refusal to place name on register and removal of name from register.

(a) has been convicted of any felony or misdemeanour or of any offence which if committed within this State would be a felony or misdemeanour;

(b)

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(b) has been guilty of misconduct in any professional respect.

(2) Without limiting the meaning of the expression "misconduct in a professional respect," a pharmacist shall be deemed guilty of such conduct who—

(a) in the carrying on of business as a pharmacist makes use of any title or description other than one granted to him by some body recognised by the Board ; or

(b) save in such cases and subject to such conditions as are prescribed,—

(i) practises pharmacy in a name other than his own ; or

(ii) allows the use of his name in connection with the practice of pharmacy at premises at which he is not in regular daily attendance for the purpose of practice and supervision.

(3) Before erasing or removing from the register the name of any person pursuant to this section the Board sitting in open court shall make due inquiry into the matter in accordance with paragraph (b) of subsection one of section four of this Act, and shall afford the person affected an opportunity of defence either in person or by counsel. Such person shall have the right of appeal to the Supreme Court, and such appeal shall be in the nature of a rehearing.

(4) No person shall be refused registration nor have his name removed from the register on account of a conviction for an offence which, though within the provisions of this section, does not either from the trivial nature of the offence or from the circumstances under which it was committed disqualify a person from practising pharmacy, nor until he has been called upon to furnish to the Board an explanation in regard thereto.

(5)

(5) Every complaint respecting the conduct of any pharmacist lodged with the Board involving a charge of misconduct in a professional respect shall be accompanied by a deposit of five pounds.

Such deposit shall not be required where the complaint is lodged by a member of the police force or an officer of the Board.

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

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

8A. Where the Board directs the removal from the register of the name of any person, the name of that person shall not be again entered on the register, 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 to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding the registration fee, as the Board may from time to time direct, and the registrar shall restore the same accordingly.

Restoration of name removed.

(b) by omitting section nine and by inserting in lieu thereof the following section :—

New s. 9.

9. If any person not being a registered pharmacist practises as a pharmacist he shall be guilty of an offence against this Act.

Only registered pharmacists may practise pharmacy.

This section shall not extend to an assistant or apprentice to a pharmacist who compounds or dispenses drugs or medicines under the actual and personal supervision of a pharmacist.

(c) by omitting section ten and by inserting in lieu thereof the following section :—

New s. 10.

10. (1) The Board shall register or license premises upon or from which drugs or medicines are manufactured, compounded, dispensed, or supplied.

Registration of premises for manufacture or compounding, &c., of drugs.

(2)

(2) Any certificate of registration or license granted by the Board may be issued, subject to the prescribed conditions, upon payment of the prescribed fee.

(3) After a date to be appointed by the Governor and notified by proclamation published in the Gazette, any person who manufactures or compounds, dispenses, or supplies drugs or medicines upon premises which are not registered or licensed by the Board, shall be guilty of an offence against this Act.

- (d) (i) by omitting from section eleven the words and figures "form of Schedule III to this Act, if he is of the full age of twenty-one years" and by inserting in lieu thereof the words "prescribed form, if he proves to the satisfaction of the Board that he is of the full age of twenty-one years and of good character"; Sec. 11, (Qualifications of registered pharmacists.)
 - (ii) by omitting paragraph (e) from the same section and by inserting in lieu thereof the following paragraph :—
 - (e) holds a recognised certificate and satisfies the Board that by the laws or regulations in force in that behalf in the country where such certificate was issued the right to practise pharmacy therein is granted without further examination to persons who are registered under this Act.
 - (iii) by inserting at the end of subparagraph (i) of paragraph (g) of the same section the words "and produces to the registrar the prescribed evidence of the training he has received during his apprenticeship";
 - (iv) by omitting from subparagraph (ii) of paragraph (g) of the same section the words "and materia medica" and by inserting in lieu thereof the words "materia medica or any other prescribed subject";
- (e)

- (e) (i) by omitting from section twelve the words "to allow his apprentices during the last year of" and by inserting in lieu thereof the words "to instruct his apprentices in pharmacy and to allow them during"; Section 12. (Apprentices to be allowed to attend lectures and examinations.)
- (ii) by omitting from the same section the words "mentioned in the last preceding section" and by inserting in lieu thereof the word "prescribed";
- (f) by omitting from section fourteen all words after the words "twelve months"; Sec. 14.
- (g) by inserting next after section fourteen the following new section:— New s. 14A.

14A. Nothing in this Act contained shall extend to or interfere with the business or with any rights of any dentist, medical practitioner, or veterinary surgeon in the preparation, dispensing, compounding, or supplying of any drug or medicine for the treatment of any person or animal then immediately under his professional treatment, or with the rights of a wholesale chemist, druggist, or manufacturer compounding or supplying drugs, medicines, or chemicals in the ordinary course of wholesale dealing or trading for re-sale on and from premises licensed by the Board for that purpose. Rights of dentists, medical practitioners, &c., not interfered with.

- (h) by omitting section fifteen and by inserting in lieu thereof the following section:— Sec. 15.

15. (1) Every pharmacy shall be in charge of a pharmacist who shall personally superintend the carrying on of the business of such pharmacy. Pharmacist to personally supervise at pharmacy.

(2) No pharmacist personally in charge of a pharmacy shall be at the same time personally in charge of any other pharmacy.

(3) The name of a pharmacist in charge of a pharmacy shall be notified in the prescribed manner to the Board within one month of his taking charge of such pharmacy.

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The name of a pharmacist in charge of a pharmacy shall be prominently displayed in the manner prescribed on the exterior and interior of the said pharmacy, and also upon all packages and containers of medicines and drugs sold by the pharmacist.

(4) A breach of any of the provisions of this section shall be an offence against this Act, and the person who owns the business carried on at the pharmacy, and the pharmacist in charge of such pharmacy, shall each be liable for such offence.

- (i) (i) by inserting in section sixteen after the words "his estate" the words "shall advise the registrar of the death of such pharmacist"; Sec. 16. (Death of registered pharmacist.)
- (ii) by inserting in the same section after the words "deceased pharmacist" the words "for such period or periods as the Board may approve, and";
- (iii) by inserting at the end of the same section the words "and subject to section fifteen of this Act."

6. The Principal Act is further amended—

Further amendment of Act No. 7, 1897.

- (a) (i) by omitting from section seventeen the words "any title or term, sign or symbol, which may be construed to mean that he is qualified to perform the duties of a pharmacist, shall for each offence be liable to a penalty not less than five pounds and not more than fifty pounds" and by inserting in lieu thereof the words "or attaches to or exhibits at or causes or permits to be attached to or exhibited at any place of business or elsewhere, either alone or in combination with any other word or words or letters the words 'pharmacy', 'apothecary's hall,' 'medical drug hall,' 'pharmaceutical institution,' 'drug company,' 'bio-chemist,' or any name," Sec. 17. (Penalty for falsely pretending to be a pharmacist.)

name, title, words, symbol, letters, addition, or description implying or inferring or purporting to imply or infer that he is a registered pharmacist, or practises as a pharmacist shall be guilty of an offence against this Act”;

(ii) by inserting at the end of the same section the following new subsections:—

(2) This section shall not extend to prevent any person who is a graduate of the University of Sydney or of any other university approved by the board and who has attended the courses of instruction upon and passed his examinations in bio-chemistry at such university from using the name, title, addition, or description of “bio-chemist.”

(3) In this section “person” includes a company or association.

(b) by omitting section eighteen and by inserting New s. 18. in lieu thereof the following section:—

18. (1) From and after the commencement Companies or associations. of the Pharmacy (Amendment) Act, 1931, it shall be an offence for any company or association of persons to carry on the business of a pharmacist.

This subsection shall not extend to—

- (a) a company or association consisting wholly of registered pharmacists; or
- (b) a company carrying on the business of a pharmacist at the date of the commencement of the Pharmacy (Amendment) Act, 1931, so far as the business at any pharmacy being carried on at the date of such commencement is concerned;
- (c) a friendly society duly registered.

(2) Any company or association offending against this section shall be liable, on summary conviction, to a penalty not exceeding *two hundred pounds.* (c)

(c) by inserting after section eighteen the following new section :—

18A. Every registered pharmacist shall enter in the manner prescribed, in a record to be kept by him for the purpose, every prescription of any legally qualified medical practitioner dispensed, compounded, or made up by him. Record of prescriptions dispensed.

(d) by omitting section twenty and by inserting in lieu thereof the following section :—

20. (1) The Governor, on the recommendation of the Board, may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular and without limiting the generality of the foregoing power— Regulations.

- (a) prescribing the manner of election of members of the Board ;
- (b) prescribing the times and places of the meetings of the Board and regulating the procedure at such meetings ;
- (c) prescribing the terms and conditions of articles of apprenticeship and the registration of such articles of apprenticeship with the Board ;
- (d) prescribing the subjects in which apprentices or applicants for registration shall be examined ;
- (e) providing for the appointment of examiners and the conduct of examinations and for fixing the fees to be paid to such examiners ;
- (f) fixing reasonable fees for—
 - (i) any registration under this Act ;
 - (ii) the registration of articles of apprenticeship ;
 - (iii) any examination held by examiners appointed by the Board ; and
 - (iv)

- (iv) any service rendered or information supplied by the Board ;
- (g) providing for the issue of certificates to successful candidates at examinations held by the Board ;
- (h) providing for the verification by statutory declaration examination of witnesses or otherwise of the compliance of candidates for examination and registration with the requirements of the Act and regulations ;
- (i) prescribing what certificate, diploma, membership, degree, license, letters testimonial, or other title or document will be recognised by the Board either as entitling a person to registration or for any other purpose of this Act ;
- (j) providing for the granting of certificates of registration and the keeping of the register of pharmacists ;
- (k) prescribing the conditions under which drugs and medicines are to be dispensed, compounded, or made up by pharmacists.
- (l) providing for the recording by pharmacists of prescriptions dispensed, compounded or made up ;
- (m) regulating or prohibiting the employment except under the direct personal supervision of a pharmacist in a pharmacy of persons other than pharmacists ;
- (n) providing for the annual registration of pharmacies and of the managers thereof ;
- (o) providing for the issuing of annual licenses for the premises on which drugs or medicines are manufactured or compounded for supply by wholesale dealing.

(2) Such regulations may prescribe a penalty not exceeding *fifty* pounds for any breach thereof.

(3) Such regulations shall—

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

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

(e) by inserting next after section twenty the following new section :— New s. 20A.

20A. Every person guilty of an offence Penalties. against this Act shall, where other penalty is not prescribed, be liable on summary conviction to a penalty of not more than *fifty* pounds.

(f) by inserting next after section twenty-one the following new section :— New s. 21A.

21A. (1) The Board shall cause to be kept Accounts and audit. proper books of account.

(2) The accounts of the Board shall be audited by the Auditor-General, who shall have with respect to such accounts all the powers conferred on the Auditor-General by any law now or hereinafter to be in force relating to the audit of public accounts, and the Audit Act, 1902, and Acts amending the same shall apply to the Board and its officers in the same manner as it applies to accounting officers of Public Departments.

(3)

(3) The Board shall as soon as practicable after the thirty-first day of December in each year prepare and transmit to the Minister (for presentation to Parliament) statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

(4) The Board shall in each year pay to the Consolidated Revenue Fund such sums at such periods as the Colonial Treasurer may decide to cover the cost and expenses of any audit made by the Auditor-General in pursuance of this Act.

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

New s. 22.

22. All informations for offences against this Act shall be laid by the registrar or some other person appointed by the Board for that purpose, and any penalty and all fees payable under this Act or any regulation thereunder may be recovered before any stipendiary or police magistrate or two justices in petty sessions.

Information for offences and penalties.

(h) by omitting section twenty-three and section twenty-four, and Schedules I, II, and III.

Repeal of ss. 23, 24, and Schedules I, II, III.