

PHARMACY ORDINANCE 1936-1957.*

An Ordinance to provide for the Registration of Pharmacists and to Control the Practice of Pharmacy.

PART I.—PRELIMINARY.

Short title.
Short title amended:
No. 17, 1938,
s. 4.
Commence-
ment.

1. This Ordinance may be cited as the *Pharmacy Ordinance 1936-1957*.*

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *Gazette*.†

Repeal.

3. "The Pharmacy Act of 1891" and "The Pharmacy Act Amendment Act, 1897" of the State of South Australia, in their application to the Territory, are repealed.

Parts.

4. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Registration and Qualifications.

Part IV.—Conduct of Business as Pharmacist.

Part V.—Miscellaneous.

Definitions.
Amended by
No. 8, 1952,
s. 2; and
No. 7, 1957,
s. 2.

5. In this Ordinance, unless the contrary intention appears—

"Member" means a member of the Pharmacy Board, constituted in accordance with this Ordinance;

"Medicated wine" means any wine as prescribed;

"Register" means the Register of Pharmacists who are registered under this Ordinance;

"Registered medical practitioner" means a person registered under the *Medical Practitioners Registration Ordinance 1935*;

* The *Pharmacy Ordinance 1936-1957* comprises the *Pharmacy Ordinance 1936* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date notified in Commonwealth Gazette.	Date of Assent by Administrator.	Date of Commencement.
<i>Pharmacy Ordinance 1936</i>	No. 10, 1936	3rd September, 1936	..	28th September, 1936
<i>Pharmacy Ordinance 1952</i>	No. 8, 1952	..	23rd January, 1952	23rd January, 1952
<i>Pharmacy Ordinance 1957</i>	No. 7, 1957	..	12th April, 1957	12th April, 1957

† The date fixed was 28th September, 1936—see table above.

- “Registered pharmacist” means a person registered under this Ordinance;
- “the Board” means the Pharmacy Board constituted under this Ordinance;
- “the Chairman” means the Chairman of the Board appointed under this Ordinance;
- “the Chief Medical Officer” means the person appointed under the *Quarantine Act* 1908-1950 to be the Chief Quarantine Officer (General), Northern Territory;
- “the Minister” means the Minister of State for Health.

PART II.—ADMINISTRATION.

6.—(1.) For the purposes of this Ordinance, there shall be a Pharmacy Board, which shall be charged with the general administration of this Ordinance.

Pharmacy Board.

(2.) The Board shall be a body corporate, with perpetual succession, and a common seal, and may acquire hold and dispose of real and personal property and shall be capable of suing and of being sued.

(3.) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document or notice, and shall deem that it was duly affixed.

7.—(1.) The Board shall consist of a registered medical practitioner, a registered pharmacist, both appointed by the Minister, and the Chief Medical Officer.

Members of Pharmacy Board.

Sub-section (1.) substituted by No. 8, 1952, s. 3.

Substituted by No. 8, 1952, s. 3.

(2.) The Chief Medical Officer shall be the Chairman of the Board.

(3.) The Chairman of the Board shall preside at all meetings of the Board at which he is present, but, in the event of the absence of the Chairman from a meeting of the Board the registered medical practitioner appointed by the Minister shall preside.

Substituted by No. 8, 1952, s. 3.

(4.) A quorum of the Board shall consist of any two members.

8. All meetings of the Board shall be convened by the Chairman by notice in writing to the other members of the Board.

Meetings of the Board.

9.—(1.) For the purposes of this Ordinance, the Board may, by writing under the hand of the Chairman, summon any person to attend the Board at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which he is required by the summons to produce.

Board may summon person to appear and give evidence.

(2.) The Board may, in its discretion, on the application of any party to any proceedings before the Board, by writing under the hand of the Chairman, summon any person to appear as a witness before the Board.

Member may administer oath.

10. Any member of the Board may administer an oath to any person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Witness before Board may make affirmation.

11.—(1.) Where any witness to be examined before the Board conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath.

Person failing to appear when summoned.

12. If any person served with a summons to attend the Board, when the summons is served personally, fails without reasonable excuse to attend the Board, or to produce any documents, books or writings in his custody or control which he was required by the summons to produce, he shall be guilty of an offence.

Penalty: Fifty pounds.

Person refusing to make oath or affirmation.

13. If any person appearing as a witness before the Board refuses to be sworn or to make an affirmation or to answer any question relevant to the proceedings before the Board put to him by any member thereof, he shall be guilty of an offence.

Penalty: Fifty pounds.

False testimony.

14. Any witness before the Board who knowingly gives false testimony touching any matter material to any inquiry shall be guilty of an offence.

Penalty: Imprisonment for one year.

Liability of members.

15. The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in administering this Ordinance.

Fees.

16.—(1.) The Board may demand and, in advance, collect such fees as are prescribed.

(2.) Such fees and all penalties and other moneys received or realized under this Ordinance shall be paid into the Consolidated Revenue Fund.

Power of search.

17. Any person, thereto authorized in writing by the Chairman, may enter any premises in which any pharmacist is carrying on business, and may examine any books, papers, records, drugs or any article stored or offered for sale or used in connexion with the business.

PART III.—REGISTRATION AND QUALIFICATIONS.

18. The Board shall keep a Register to be called “The Register of Pharmacists”.

Register.

19.—(1.) A person shall be registered by the entry in the Register of his name and such other particulars relating to him as are prescribed.

Pharmacist, how registered.

(2.) Every such entry in the Register shall be signed by the Chairman.

20. Any pharmacist registered under the law in force in any State or Territory of the Commonwealth at the commencement of this Ordinance shall, on application to the Board, be entitled to be registered as such under this Ordinance by virtue of such registration, provided such application is made within six months after the commencement of this Ordinance.

Persons entitled to registration.

21. Any natural-born or naturalized British subject who is of good fame and character, and who—

Persons who may apply for registration.

- (a) has passed the examinations prescribed by the Pharmacy Board in any State, under the provisions of the Pharmacy Act of that State or by the Pharmacy Board of Victoria under the provisions of the *Medical Act* 1915 or the *Medical Act* 1928 of that State, or by the Council of the Pharmaceutical Society of Western Australia under the provisions of the *Pharmacy and Poisons Act* 1910-1948, or under the provisions of any of those State Acts as amended from time to time; or

Amended by No. 8, 1952, s. 4.

- (b) holds (by examination which in the opinion of the Board is of a standard substantially equivalent to that specified in the last preceding subsection) a certificate or diploma of competency as a pharmaceutical chemist or as a chemist and druggist from the Pharmaceutical Society of Great Britain or any College or board of pharmacy recognized for this purpose by the Board,

shall be entitled to apply to the Board for registration as a pharmacist.

22. When any person has applied to be registered and has proved to the satisfaction of the Board—

Registration of applicants.

- (a) that he has attained the age of twenty-one years;
- (b) that he is entitled to apply for registration by virtue of compliance with the requirements specified in the last preceding section; and

(c) that the certificate or diploma testifying to his qualification was, after examination, duly obtained by him from such a society, college or board as is specified in the last preceding section; and in the period during which he has held the certificate, his name has not been removed from the register of any country for any cause which would have, on its happening, disqualified him from being registered under this Ordinance; and has not been removed from the register of persons entitled to practise pharmacy in the country concerned,

the Board may cause the person to be registered by entering in the Register his name and such other particulars as are prescribed; and issue to him upon payment of the prescribed fee, a certificate in the prescribed form.

Appeal against refusal of registration by the Board.

23.—(1.) If the Board refuses to register any person under this Ordinance, the Board shall, if required by such person, state in writing the reason for such refusal.

(2.) Such person may thereupon appeal to the Supreme Court of the Northern Territory.

Copy of register to be published.

24.—(1.) The Board shall cause to be published in the *Gazette* in every year a true copy of the Register.

(2.) A copy of the Register so published shall be *prima facie* evidence of the registration of the persons named therein.

Fraudulent registration.

25. Any person who procures himself to be registered under this Ordinance by means of any false or fraudulent representation or by the production of any false certificate or diploma shall be guilty of an offence.

Penalty: One hundred pounds.

Amendments may be made in Register.

26.—(1.) Any registered pharmacist who obtains or already possesses any higher degree or any qualification other than the qualification in respect of which he is registered may have such higher degree or additional qualification inserted in the Register without payment of any additional fee.

(2.) There shall be inserted in the Register the particulars of any honour conferred on any pharmacist by His Majesty the King.

Notification of change of address.

27.—(1.) Any registered pharmacist who changes his professional address shall forthwith give notice of the fact by post to the Chairman of the Board.

(2.) The Registrar-General of Births, Marriages and Deaths and any District Registrar of Births, Marriages and Deaths who registers the death of any pharmacist, shall forthwith transmit notice thereof by post to the Chairman of the Board.

28.—(1.) The Board shall remove from the Register the names of all registered pharmacists who have died and may make such alterations and amendments in the register as it thinks fit. Correction of Register.

(2.) The Board may, by notice to any registered pharmacist addressed to him by registered post according to his address in the Register, inquire whether he has changed his address or residence, and, if an answer is not returned to such notice within six months after the date of the posting thereof, the Board may remove the name of such person from the Register.

(3.) Any name removed from the Register under this Part may be restored by the Board.

PART IV.—CONDUCT OF BUSINESS AS PHARMACIST.

29.—(1.) The Board shall remove from the Register the name of any person— Grounds of cancellation of registration.

- (a) whose registration has been obtained by fraud or misrepresentation;
- (b) who has ceased to possess, or does not possess, the qualifications in respect of which he was registered;
- (c) who has been convicted in any part of His Majesty's Dominions or elsewhere of an indictable offence or of any other offence which, in the opinion of the Board, renders him unfit to practise;
- (d) who has been certified insane; or
- (e) who is deemed by the Board guilty of—
 - (i) habitual drunkenness or habitual addiction to any drug; or
 - (ii) such improper conduct as, in the opinion of the Board, renders him unfit to be allowed to continue to practise as a pharmacist.

(2.) If the Board removes the name of any person from the Register, it shall, if so required by him, state in writing the reason for the removal.

(3.) Any person whose name has been removed from the Register in pursuance of this section may appeal to the Supreme Court of the Northern Territory to have his name restored to the Register and the Board shall, if the Supreme Court so orders, restore his name accordingly.

Removal of names from Register.

30.—(1.) Before removing from the Register the name of any person, the Board shall make due inquiry, and the person may be represented by counsel, attorney or agent, who may examine witnesses and address the Board on his behalf.

(2.) Pending the hearing of a charge against any person, the Board may suspend the registration of that person who shall thereupon cease to practise.

Surrender of certificate of registration.

31. Any person whose name is removed from the Register in pursuance of this Part shall, within fourteen days after the date of posting of a notice demanding the return of his certificate of registration, surrender his certificate to the Board for cancellation.

Penalty: Five pounds for every day after the period of fourteen days during which the certificate is not surrendered.

Persons other than registered pharmacists not to carry on business.

32.—(1.) Any person other than a registered pharmacist who carries on or attempts to carry on in any place on any occasion the business of a pharmacist, or pretends to be a pharmacist, or assumes and uses the title of pharmaceutical chemist, pharmaceutist, pharmacist, chemist, druggist, homœopathic chemist, dispensing chemist, dispensing druggist or other words of similar meaning, or uses or exhibits any title, term, sign or symbol which may be construed to mean that he is qualified to perform the functions of a pharmacist or that he is carrying on business as a pharmacist shall be guilty of an offence.

Penalty: One hundred pounds.

(2.) Upon the decease of any pharmacist actually in business at the time of his death, any executor, administrator or trustee of the estate of that pharmacist may continue the business for a period of two months or for such longer term as is permitted by the Board if and so long only as such business is *bona fide* conducted by a registered pharmacist.

Sale of patent medicines, &c.

33. A retail storekeeper or shopkeeper shall not, subject to any law in force in the Territory, be deemed to be carrying on the business of a pharmacist if he sells—

(a) any patent medicine or proprietary medicine; or

- (b) any medicine or drug sold in the original container in which it was packed by the manufacturer.

For the purposes of this Ordinance, a patent or proprietary medicine means any pills, powders, lozenges, tinctures, potions, or waters (other than artificial mineral waters) which—

- (a) are the subject of an existing letters patent;
- (b) are to be used or applied externally or internally and in respect of which the person making or vending the same claims to have any secret process for, or any exclusive right or title to, the making or preparing the same; or
- (c) are by any public notice or advertisement or by any written or printed papers or handbills or by any label held out or recommended to the public by the makers, vendors or proprietors thereof as nostrums or specifics or as beneficial to the prevention, cure or relief of any ailment.

34. Every pharmacist, and every person or assistant under whose conduct or management the business or any branch of the business of a pharmacist is carried on, shall have his name legibly painted or written, and continually so maintained, on a conspicuous place on the front of the building where the business is carried on.

Name of pharmacist to be exhibited.

35.—(1.) A person other than a registered pharmacist shall not—

Pharmaceutical appointments not to be held by unregistered persons.

- (a) hold any appointment as a pharmacist—
 - (i) in any hospital, infirmary, dispensing hospital for the insane, gaol, or other public institution;
 - (ii) to any health centre, or other centre or clinic for the promotion of the public health; or
 - (iii) to any friendly society or school;
- (b) except as hereinafter provided, compound or dispense for fee or reward any drug or medicine;
- (c) sell or have in his possession for the purposes of sale—
 - (i) any medicated wine;
 - (ii) any preventive of conception; or
 - (iii) any prescribed drug, preparation or article.

(2.) Notwithstanding anything contained in the last preceding section, a *bona fide* assistant or apprentice to a registered pharmacist may retail, compound, or dispense drugs and medicines in the course of his employment and under the actual personal supervision of a registered pharmacist.

Temporary
registration.

36.—(1.) The Board may, upon the application of any registered pharmacist, issue a temporary permit to a pharmacist registered in any State or Territory of the Commonwealth to act as *locum tenens* for such registered pharmacist for a period of three calendar months from the date of issue of the permit.

(2.) The Board may renew any such permit for one further period of three calendar months, but not for any longer period.

Prescriptions to
be signed.
Amended by
No. 8, 1952,
s. 5.

37. A medical practitioner shall not issue a prescription unless the prescription is signed by him with his usual signature and bears the date on which the prescription was issued.

Record of
prescriptions.

38. Every pharmacist shall, as prescribed, record in a book to be kept by him for the purpose every prescription of any medical practitioner dispensed, compounded or made up by him.

Conduct of
business by
pharmacist.

39. A pharmacist shall not—

- (a) keep or maintain any shop for selling or supplying medicines or drugs, or for compounding or dispensing prescriptions unless such shop is, while open for business, constantly under his own control or that of some other registered pharmacist, as an assistant or agent of a registered pharmacist;
- (b) permit any person, other than a *bona fide* assistant or apprentice in the course of his employment and under his actual personal supervision, or a registered pharmacist, to sell or supply medicines or drugs or compound or dispense prescriptions;
- (c) carry on business except under the actual personal supervision of himself or some other registered pharmacist;
- (d) practise pharmacy except in his own name;
- (e) adopt the title "Consulting chemist";
- (f) give medical or surgical advice or aid except in his place of business and—
 - (i) in the case of simple ailments of common occurrence;
 - (ii) in the administration of antidotes in cases of acute poisoning;
 - (iii) in the application of immediate aid in cases of accident or injury;
 - (iv) in urgent or emergent cases under the direct instructions of a medical practitioner;

- (g) allow his name to be used in connexion with the practice of pharmacy at any premises at which there is not a registered pharmacist in daily attendance; or
- (h) aid or assist any person other than a registered pharmacist to practise pharmacy except in accordance with the provisions of this Ordinance.

40. Every registered medical practitioner or qualified veterinary surgeon may compound or dispense any medicines or drugs for patients or animals under his professional care without becoming a registered pharmacist.

Medical practitioner, &c., may dispense medicines.

41.—(1.) Any person who—

- (a) instals any automatic machine for the sale or supply of any drug or medicine or allows, permits or suffers any such automatic machine to be so installed;
- (b) sells or supplies any drug or medicine by means of any automatic machine; or
- (c) allows, permits or suffers any person to purchase or be supplied with or otherwise obtain any drug or medicine by means of any automatic machine,

Automatic machines for vending medicines prohibited.

shall be guilty of an offence.

Penalty: Ten pounds.

(2.) For the purposes of the last preceding sub-section, "automatic machine" means any machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier, or his employee, or other agent at the time of the sale or supply.

42.—(1.) Any person, other than a registered medical practitioner, or a person acting under the direct instructions of such medical practitioner, who attends upon, prescribes for, or supplies any article as a drug, medicine, instrument or appliance to any person for the alleviation, cure or treatment of any venereal disease, whether such person is in fact suffering from such disease or not, or of any disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for the purpose of terminating pregnancy or influencing the course of pregnancy, shall be guilty of an offence.

Restrictions upon the supply of certain medicines, &c.

Penalty: Fifty pounds or imprisonment for six months.

(2.) Nothing in this section shall apply to—

- (a) a registered pharmacist who dispenses to the patient of a medical practitioner registered in any State or Territory of the Commonwealth the prescription of such practitioner if the prescription is dated and bears the address and usual signature (including the surname) of the practitioner; or
- (b) a registered pharmacist who in the ordinary course of his business sells or supplies any article as a drug, medicine, instrument or appliance (except such drugs, medicines, instruments or appliances as are prescribed), provided such drug, medicine, instrument or appliance is sold or supplied by such pharmacist for purposes other than those prescribed by this section.

Certain
advertisements
prohibited.

43.—(1.) A person shall not publish any statement, whether by way of advertisement or otherwise, to promote the sale of any article as a medicine, instrument or appliance for the alleviation or cure of any venereal disease, or disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for terminating pregnancy or influencing the course of pregnancy, or for preventing conception.

(2.) Any person who—

- (a) affixes or inscribes any statement on any thing whatsoever so as to be visible to persons being in or passing along any street, road, highway, pathway, public place or public conveyance;
- (b) delivers or offers, or exhibits any statement to any person being in or passing along any street, road, highway, pathway, public place or public conveyance;
- (c) throws any statement into or upon any street, road, highway, pathway, public place or public conveyance, or into the area, yard, garden or enclosure of any house;
- (d) exhibits any statement to public view in any house, shop or place;
- (e) prints or publishes any statement in any newspaper; or
- (f) sells, offers, or shows or sends by post any statement to any person,

shall be deemed to have published that statement.

(3.) The word "statement" includes any document, book or paper containing any statement.

(4.) Any person, who, for himself or as assistant, servant, agent or manager, does or permits any act, matter or thing contrary to this section or any part thereof shall be guilty of an offence.

Penalty: Fifty pounds.

(5.) Nothing in this section shall apply to any books, documents, or papers, published in good faith for the advancement of medical or surgical science, or to any advertisement, notice or recommendation published by the authority of the Chief Medical Officer, or to any publication sent only to medical practitioners or to registered pharmacists for the purposes of their business.

44. The British Pharmacopœia, as published in England under the direction of the General Council of Medical Education and Registration of the United Kingdom in the edition for the time being in force, shall be the Pharmacopœia in force in the Territory as the standard of quality or composition for all drugs or medicines and for the methods of preparation of all drugs or medicines and of compounding of all mixtures thereof, and for the purposes of this Ordinance the litre, and the gram shall be accepted respectively as legal units of volume and weight.

British
Pharmacopœia.
Amended by
No. 8, 1952,
s. 6.

PART V.—MISCELLANEOUS.

45. Proceedings for offences against this Ordinance may be instituted in any Court of competent jurisdiction by the Chairman or by any person thereto authorized in writing by the Chairman.

Proceedings how
instituted.

46. Any person who—

- (a) assaults or by force molests or obstructs or intimidates any person in the performance of his duty under this Ordinance; or
- (b) refuses to permit any person thereto authorized in writing by the Chairman to examine books, papers, records, drugs or articles or to produce such for examination,

Obstruction an
offence.

shall be guilty of an offence.

Penalty: One hundred pounds.

47. Any person who commits any breach of the provisions of this Ordinance, for which a penalty is not specially provided, shall be liable on conviction to a penalty not exceeding Fifty pounds.

Penalty for
offences where
no special
penalty
provided.

Regulations.

48. The Minister may make Regulations, not inconsistent with this Ordinance prescribing all matters which are required or permitted to be prescribed, or which by this Ordinance are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and, in particular, prescribing matters providing for and in relation to—

- (a) the meetings and proceedings of the Board and the conduct of the business thereof, and the duties of its officers;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the manner of keeping the Register and the particulars to be entered thereon;
- (d) the scale of fees to be charged and paid in respect of any application, registration, certificate or other proceeding, act or thing provided or required under this Ordinance;
- (e) the control of the professional conduct of registered pharmacists and the practice of the profession;
- (f) the conditions under which medicines may be manufactured, dispensed, compounded or sold;
- (g) the extent to which the British Pharmaceutical Codex, published by direction of the Council of the Pharmaceutical Society of Great Britain, or the Australasian Pharmaceutical Formulary published by the Australasian Pharmaceutical Conference on behalf of the Pharmaceutical Societies of Australia and New Zealand, shall be accepted as a statement of official standards or quality or composition of drugs or medicines and of the methods of preparation of drugs or medicines and of compounding of all mixtures thereof;
- (h) the qualifications of apprentices and the conditions under which apprentices may be employed; and
- (i) the imposition of penalties not exceeding Twenty pounds which may be imposed for breaches of the Regulations.