

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Pharmacy (Amendment) Bill 1993 [No. 2]

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Pharmacy (Amendment) Bill 1993 [No. 2]

**A BILL
FOR**

**An Act to amend the *Pharmacy Act 1931* and for
related purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Pharmacy (Amendment) Act 1993*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.
- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Pharmacy Act 1931*.¹

5 PART II—AMENDMENTS OF PRINCIPAL ACT

Long title

4. The long title of the Principal Act is amended by omitting "and to Control the Practice of Pharmacy" and substituting ", to control the practice of pharmacy and for related purposes".

10 Interpretation

5. Section 5 of the Principal Act is amended—

(a) by omitting the definition of "registered pharmacist" and substituting the following definition:

" 'registered pharmacist' means a person who is—

15

(a) registered under this Act; or

(b) to be deemed to be registered under this Act by virtue of section 25 of the *Mutual Recognition Act*;

20

(b) by omitting the definitions of "the Board", "the Chairman", "the Deputy Chairman" and "the Register";

(c) by inserting the following definitions:

" 'Board' means the Pharmacy Board established by virtue of section 6;

'Chairperson' means the Chairperson of the Board;

25

'Deputy Chairperson' means the Deputy Chairperson of the Board;

'determined fee' means the fee determined under section 50 for the purposes of the provision in which the expression occurs;

30

'Mutual Recognition Act' means the *Mutual Recognition Act 1992* of the Commonwealth;

'qualification' includes a degree, certificate or diploma;

'Register' means the register kept pursuant to section 24;";
and

(d) by omitting subsections (2) and (3).

Insertion

5 6. After section 5 of the Principal Act the following sections are inserted in Part I:

Competence to practise pharmacy

"5A. For the purposes of this Act, a person shall be taken to be competent to practise pharmacy only if the person—

- 10 (a) has sufficient physical capacity, mental capacity and skill to practise pharmacy; and
(b) has sufficient communication skills for the practise of pharmacy, including an adequate command of the English language.

Impairment

15 "5B. (1) For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise pharmacy.

20 "(2) For the purposes of subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder."

Heading to Part III

25 7. The heading to Part III of the Principal Act is amended by omitting "AND QUALIFICATIONS".

Substitution

8. Sections 21, 22, 23 and 24 of the Principal Act are repealed and the following Divisions and heading substituted:

"Division 1—Qualifications for registration

30 **Registration based on qualifications and training**

"10. (1) A person is entitled to be registered as a pharmacist if—

- (a) the person is a graduate of a course of study and training in pharmacy offered by—
35 (i) an Australian institution in a State or Territory, being a course that is accredited in writing by the Board, or

recognised by a registration authority in that State or Territory; or

(ii) an institution in a place outside Australia, being a course that is accredited in writing by the Board; and

5 (b) the person—

(i) has passed, to the satisfaction of the Board, an examination conducted by or on behalf of the Board, in Australia or elsewhere, in accordance with a determination made, on the recommendation of the Board, by the Minister for the purposes of this paragraph and published in the *Gazette*; and

10 (ii) if required by the Board, has undertaken training or gained experience in the practise of pharmacy in Australia for such period, not exceeding 12 months, as the Board determines.

15 “(2) The Board shall not accredit a course offered by an institution in a place outside Australia unless the course is substantially equivalent to a course offered by an Australian institution in a State or Territory.

“(3) The entitlement under this section is an entitlement to registration that is not subject to any condition.

20 Registration under mutual recognition principle

“11. (1) A person who is licensed or registered as a pharmacist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as a pharmacist under this Act.

25 “(2) If the person’s licence or registration in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

30 “(3) If the person’s licence or registration in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that licence or registration is subject or conditions appropriate to give effect to any restriction to which that licence or registration is subject.

35 Registration at discretion of Board

“12. (1) The Board may register a person as a pharmacist for the purpose of enabling an unmet area of need to be met if the Board is satisfied that the person has suitable qualifications and experience to practise pharmacy in that area of need.

“(2) The Board may register a person as a pharmacist for the purpose of enabling the person to fill a teaching or research position if—

- (a) the person has qualifications that the Board considers appropriate for that purpose; and
- 5 (b) the application is supported, in writing, by the hospital, professional association, university or other educational or research institution by which it is proposed that the person be engaged for that purpose.

10 “(3) The Board may register a person as a pharmacist on a temporary basis—

- (a) for the purpose of enabling a person to undertake training or to gain experience in the practise of pharmacy; or
- (b) if it is satisfied that it is in the public interest to do so.

15 “(4) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

Interim registration

“13. (1) An applicant for registration may be granted interim registration where—

- 20 (a) the person is entitled to registration under section 10 but it is not practicable to wait until the Board can consider the application; or
- (b) the person would be entitled to registration under section 10 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.

25 “(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant to an applicant for registration interim registration in accordance with this section.

“ (3) Interim registration granted to a person under this section remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- 30 (a) granted him or her registration;
- (b) refused his or her application for registration; or
- (c) cancelled the interim registration.

35 “(4) The Board may cancel a person’s interim registration for any reason that it considers proper and shall immediately give the person notice in writing of the cancellation.

“(5) A person who holds interim registration is for all purposes to be taken to be a registered pharmacist.

5 “(6) Where a person who is registered as a pharmacist held interim registration at the time of being so registered, the person’s registration as a pharmacist shall be taken to have occurred on the day on which he or she was granted interim registration.

“(7) Interim registration under this section shall be taken to have been granted by the Board.

Conditions of registration in cases of impairment

10 “14. (1) The Board may impose conditions on a person’s registration if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

15 “(2) Where conditions have been imposed on a person’s registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if it is satisfied that—

(a) the person no longer suffers from the impairment; or

(b) the impairment has lessened;

the Board may alter or remove the conditions or impose new conditions.

20 Refusal of registration where applicant convicted of offence

“15. (1) The Board may refuse an application for registration if—

25 (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and

(b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise pharmacy.

30 “(2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

“(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Refusal of registration where applicant deregistered outside Territory

5 "16. (1) The Board may refuse an application for registration if the applicant's name has been removed from a foreign pharmacy register for any reason relating to—

- (a) the conduct of the person as a pharmacist; or
- (b) the physical or mental capacity of the person to practise pharmacy.

10 "(2) A person's name shall be taken to have been removed from a foreign pharmacy register if it is removed from any register or roll established or kept under any law of any country, State or other Territory providing for the registration, licensing or certification of a pharmacist under an Act.

15 "(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Applicants to be competent and of good character

"17. (1) The Board shall not register a person as a pharmacist unless it is satisfied that the person is competent to practise pharmacy and is of good character.

20 "(2) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

Restriction on registration of deregistered or suspended persons

25 "18. (1) Where the registration of a person under this Act has been cancelled (otherwise than under section 24B or subsection 24F (2)) or suspended (otherwise than under subsection 33 (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 32E.

30 "(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

"Division 2—Registration procedure

Applications for registration

35 "19. (1) This section applies to applications for registration other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

“(2) An application for registration to which this section applies shall—

- (a) be in a form approved by the Board; and
- (b) be accompanied by the determined fee.

Applications to be considered and determined

5 “20. The Board shall consider each application under section 19 and shall determine the application by—

- (a) registering the applicant unconditionally or subject to conditions;
or
- (b) refusing the application.

10 Registration of applicants

“21. Where a person who is applying for registration otherwise than under the Mutual Recognition Act—

- (a) complies with section 19;
- 15 (b) appears personally before the Board in support of his or her application if required by the Board to do so; and
- (c) is entitled to registration in accordance with this Act;

the Board shall, subject to this Act, cause the applicant to be registered.

Fee for registration pursuant to Mutual Recognition Act

20 “22. A person who applies for registration under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

Conditions of registration

25 “23. The conditions that the Board may impose on registration at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be engaged and conditions relating to any other matters the Board considers appropriate.

“Division 3—Register of Pharmacists

Register

30 “24. (1) The Board shall keep a register called the ‘Register of Pharmacists’.

“(2) The Register may be kept by electronic means.

Particulars to be entered in Register

“24A. A person shall be registered by entering in the Register—

- (a) the name of the person;

- (b) the person's professional address or addresses in the Territory or, if he or she has no professional address in the Territory, the person's place of residence, whether within or outside the Territory;
- 5 (c) particulars of the qualifications entitling the person to be registered;
- (d) the registration number allotted to the person;
- (e) the date of registration;
- (f) any condition to which the person's registration is subject; and
- (g) such other particulars, if any, as are prescribed.

10 **Deregistration on basis of disciplinary action under foreign law**

"24B. (1) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register kept under a law of a State or another Territory for any reason relating to—

- (a) the conduct of the person as a pharmacist; or
 - 15 (b) the physical or mental capacity of the person to practise pharmacy;
- the Board shall cancel the registration of the person.

"(2) Where—

- (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the Register referred to in that subsection; and
 - 20 (b) the person applies to the Board to be re-registered under this Act;
- the Board shall re-register the person.

"(3) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register kept under a law of a place outside Australia for any reason relating to—

- (a) the conduct of the person as a pharmacist; or
 - (b) the physical or mental capacity of the person to practise pharmacy;
- the Board may cancel the registration of the person.

"(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

30 **Imposition of conditions imposed under foreign law**

"24C. (1) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of

the person as a pharmacist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

- 5 “(2) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as a pharmacist under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person under this Act.

Cessation of registration

- 10 “24D. A registered pharmacist ceases to be registered—
- (a) when the Board gives the person notice that his or her registration has been cancelled in accordance with this Act; or
 - (b) if registration is conditional and the period of registration is specified in a condition—when that period expires.

“Division 4—Annual fees

15 Annual fee payable

“24E. (1) A registered pharmacist shall, on or before 31 October in each year, pay to the Territory the determined fee.

- 20 “(2) The Board shall cause to be sent to each registered pharmacist, not less than 1 month before 31 October in each year, a notice requiring him or her to comply with subsection (1).

“(3) The liability of a registered pharmacist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

Registration to be cancelled for non-payment

- 25 “24F. (1) Where a registered pharmacist does not comply with subsection 24E (1), the Board shall cause to be sent to the pharmacist a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

- 30 “(2) The Board shall cancel the registration of a pharmacist to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

Entitlement to re-registration on payment of fees

- 35 “24G. (1) A person whose name has been removed from the Register for failure to pay an annual fee is entitled to be re-registered if he or she makes application in accordance with this section and pays the determined fee.

“(2) An application for re-registration under this section shall—

- (a) be in a form approved by the Board; and
- (b) be accompanied by the determined fee.

5 “(3) The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions, if any, as applied to the person’s registration immediately before the removal of his or her name from the Register.

10 “(4) The Board may refuse to re-register a person under this section if it is satisfied that the person is not competent to practise pharmacy or is not of good character.

“(5) An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person’s name is authorised or required to be removed from the Register.

“Division 5—Miscellaneous”.

15 **Certificate of registration**

9. Section 25 of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

20 “(1A) A certificate of registration shall state the provision by virtue of which the person specified in the certificate is entitled to be registered under this Act and any conditions to which his or her registration is subject.”;

(b) by omitting from subsection (2) “issued under subsection (1)”; and

(c) by omitting subsections (3) to (6) (inclusive) and substituting the following subsections:

25 “(3) Where a certificate issued under subsection (1) has been destroyed or lost, the Board shall, on payment of the determined fee, cause to be issued to the registered pharmacist a duplicate certificate.

“(4) Where—

30 (a) the Board has given to a person notice in writing that his or her registration has been suspended or cancelled; and

(b) a period of 14 days has elapsed since the notice referred to in paragraph (a) was given;

35 the person shall deliver his or her certificate of registration to the Chairperson.

“(5) A person who, without reasonable excuse, contravenes subsection (4) is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.

5 “(6) Where a person whose registration has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person’s registration has sooner been cancelled.

10 “(7) Where, after a certificate of registration has been issued to a person—

- (a) conditions are imposed on the registration of the person; or
- (b) conditions imposed on the registration of the person are varied;

15 the Chairperson may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Chairperson within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

20 “(8) A person who, without reasonable excuse, contravenes a notice under subsection (7) is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.

25 “(9) A notice for the purpose of paragraph (4) (a) or subsection (7) may be given to a person by post addressed to the person at the address of the person last known to the Chairperson.

“(10) It is a defence to a prosecution for an offence against subsection (4) or (7) that—

- (a) the certificate has been destroyed; or
 - (b) after diligent search, the defendant has been unable to find the certificate.”.
- 30

Repeal

10. Section 26 of the Principal Act is repealed.

Change of address to be notified

11. Section 27 of the Principal Act is amended—

35 (a) by omitting from paragraph (a) “22” and substituting “24A”;

- (b) by omitting from paragraph (a) "or furnished to the Board under section 26"; and
- (c) by omitting the penalty provision at the foot of the section and substituting the following penalty provision:

5 "Penalty: \$500."

Alteration of Register

12. Section 28 of the Principal Act is amended by omitting from subsection (1) all the words after "name" and substituting the following:

"of—

- 10 (a) a registered pharmacist who has died; or
- (b) a registered pharmacist whose registration has been cancelled."

Repeal

13. Sections 29, 30, 31 and 31A of the Principal Act are repealed.

Substitution

15 14. Sections 32 and 32A of the Principal Act are repealed and the following sections substituted:

Cancellation or suspension of registration

"32. The Board may—

- (a) cancel the registration of a person; or
- 20 (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit;

if satisfied that—

- (c) the registration of the person was obtained by fraud or misrepresentation;
- 25 (d) the pharmaceutical qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) the person has contravened a condition to which his or her registration under this Act is subject;
- 30 (f) the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the Board, renders him or her unfit to practise as a pharmacist;

- (g) the person is guilty of habitual drunkenness, or addiction to deleterious drugs, that renders him or her unfit to practise as a pharmacist;
- 5 (h) the person has failed to exercise adequate judgment or care in the practise of pharmacy;
- (j) the person has engaged in any conduct, whether occurring in the practise of pharmacy or not, that adversely affects the practise of pharmacy by the person;
- (k) the person has contravened this Act or the regulations;
- 10 (m) the person has engaged in any other improper or unethical conduct relating to the practice of pharmacy; or
- (n) the person is not competent to practise pharmacy.

Cancellation, suspension or restriction of right of practise on health grounds

15 "32A. (1) Subject to subsection (2), the Board shall, when it is satisfied that the mental or physical condition of a person who is registered as a pharmacist renders him or her unfit to practise pharmacy—

- (a) cancel the registration of the person; or
- 20 (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

"(2) The Board may, instead of cancelling or suspending the registration of a person, where it is satisfied that the person is fit to provide some pharmaceutical services and that it would not be contrary to the public interest to make an order under this subsection, by order served on the person, direct the person not to provide the pharmaceutical services specified, whether individually or otherwise, in the order.

25 "(3) Where the Board has made an order under subsection (2) in relation to a person, it may, if so requested by the person, review the order and, if it is satisfied that the mental or physical condition of the person has changed since the order was made, amend or remove the order.

30 "(4) A person on whom an order under paragraph (1) (b) or subsection (2) has been served who provides a pharmaceutical service in contravention of that order shall, in providing the service, be deemed to be a person other than a registered pharmacist.

35 Practising when registration suspended

"32B. Where a person whose registration as a pharmacist has been suspended is convicted of an offence against section 35, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such further period as the Board thinks fit.

Power of Board to caution, reprimand etc.

5 "32C. (1) The Board may do any 1 or more of the following in relation to the conduct of a registered pharmacist:

- (a) caution or reprimand the pharmacist;
- (b) order that the pharmacist seek and undergo medical or psychiatric treatment or counselling;
- 10 (c) impose on the pharmacist's registration such conditions relating to the practise of pharmacy as the Board considers appropriate;
- (d) order that the pharmacist seek and follow advice, in relation to the management of his or her pharmacy practice, from persons specified by the Board;
- 15 (e) order that the pharmacist complete specified educational courses.

"(2) Paragraph (1) (e) does not apply in relation to a registered pharmacist who obtained registration under this Act pursuant to the Mutual Recognition Act.

Power of Board to impose fines

20 "32D. (1) Subject to subsection (2), where the Board finds that a registered pharmacist has failed to comply with an order of the Board under section 32C it may, by order served on the person, impose on him or her a fine not exceeding \$1,000.

25 "(2) The Board shall not impose a fine under subsection (1) in respect of conduct for which a court has already imposed a fine or other penalty.

"(3) A fine imposed under this section shall be paid to the Territory within the time specified in the order imposing the fine.

30 "(4) Where a person on whom the Board has imposed a fine under subsection (1) fails to pay the fine by the time specified in the order, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

Application for re-registration

35 "32E. (1) Where the registration of a person has been cancelled, otherwise than under section 24B or subsection 24F (2), or suspended,

5 otherwise than under section 33, the person may apply for re-registration or termination of the suspension, as the case may be, on the ground that, by reason of a specified change in the circumstances that has occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or his or her suspension should be terminated.

10 “(2) Upon application under this section the Board may, if satisfied that, by reason of the change in circumstances, the person should be re-registered or his or her suspension should be terminated, order that the person be re-registered or that his or her suspension be terminated, as the case requires.”.

Inquiry by Board

15 **15.** Section 33 of the Principal Act is amended—

(a) by omitting paragraph (1) (c) and substituting the following paragraphs:

15 “(ba) making an order under subsection 32A (2);

(c) taking action under section 32C.”; and

(b) by omitting from subsection (2) all the words after “may” and substituting “, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person”.

20 Repeal

16. Sections 33A and 34 of the Principal Act are repealed.

Publication of notice of decision of Board or Tribunal

17. Section 36 of the Principal Act is amended by omitting paragraphs (1) (b) and (c) and substituting the following paragraphs:

25 “(b) suspending, otherwise than under subsection 33 (2), the registration of a person;

(c) imposing a condition on the registration of a person;

(d) making an order under subsection 32A (2);

(e) taking action under section 32C; or

30 (f) imposing a fine on a person under section 32D;”.

Insertion

18. Before section 48 of the Principal Act the following Division and heading are inserted in Part V:

“Division 1—Review of decisions**Review of decisions**

“47A. Application may be made to the Tribunal for review of a decision of the Board—

- 5 (a) under subsection 12 (4), 14 (1) or 24C (2) to impose conditions on the registration of a person;
- (b) under subsection 13 (4) to cancel the interim registration of a person;
- 10 (c) under subsection 14 (2) to refuse to review, or to alter or remove conditions imposed on the registration of a person;
- (d) under subsection 14 (2) to impose new conditions on the registration of a person;
- (e) under section 20 to refuse to register a person;
- 15 (f) under subsection 24B (4) or 24G (4) or section 32E to refuse to re-register a person;
- (g) under subsection 24B (3), section 32, subsection 32A (1), section 32B or subsection 32D (4) to cancel the registration of a person;
- (h) under section 32, subsection 32A (1), section 32B or subsection 32D (4) or 33 (2) to suspend the registration of a person;
- 20 (j) under subsection 32A (2) to direct a person not to provide a pharmaceutical service;
- (k) under subsection 32A (3) to refuse to review an order, or amend or remove an order, directing a person not to provide a pharmaceutical service;
- 25 (m) under section 32C to take any action of the kind referred to in that section in relation to a registered pharmacist;
- (n) under subsection 32D (1) to impose a fine on a registered pharmacist;
- 30 (o) under subsection 32E (2) to refuse to terminate the suspension of registration of a pharmacist;
- (p) under section 35A to refuse to extend beyond 6 months the period during which the executor or executrix of the will of a deceased pharmacist, or the administrator, administratrix or trustee of the estate of a deceased pharmacist, may continue the business of the pharmacist; or
- 35 (q) under section 35A to fix a period longer than 6 months during which the executor or executrix of the will of a deceased pharmacist, or the administrator, administratrix or trustee of the

estate of a deceased pharmacist may continue the business of the pharmacist.

Notification of decisions

5 “47B. (1) Where a decision of the kind referred to in section 47A (other than paragraph (b), (h), (j) or (n)) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision—

- 10 (a) in the case of a decision referred to in paragraph 47A (a)—to the person on whose registration conditions have been imposed;
- (b) in the case of a decision referred to in paragraph 47A (c)—to the person whose registration is subject to the condition;
- (c) in the case of a decision referred to in paragraph 47A (d)—to the person on whose registration the new conditions are imposed;
- (d) in the case of a decision referred to in paragraph 47A (e)—to the person whose application for registration has been refused;
- 15 (e) in the case of a decision referred to in paragraph 47A (f)—to the person whose application for re-registration has been refused;
- (f) in the case of a decision referred to in paragraph 47A (g)—to the person whose registration has been cancelled;
- 20 (g) in the case of a decision referred to in paragraph 47A (k)—to the person in relation to whom the order was made;
- (h) in the case of a decision referred to in paragraph 47A (m)—to the registered pharmacist in relation to whom the action has been taken;
- 25 (j) in the case of a decision referred to in paragraph 47A (o)—to the person whose registration has been suspended; or
- (k) in the case of a decision referred to in paragraph 47A (p) or (q)—to the executor or executrix of the will of the deceased pharmacist or the administrator, administratrix or trustee of the estate of the deceased pharmacist.

30 “(2) A notice under subsection 13 (4) or subsection (1) of this section, or under section 31 of the *Health Professions Boards (Procedures) Act 1981*, shall—

- 35 (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and

(b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

5 “(3) An order under paragraph 32 (b) or 32A (1) (b), subsection 32A (2), paragraph 32B (b), subsection 32D (1), paragraph 32D (4) (b) or subsection 33 (2) shall—

10 (a) have endorsed on it or attached to it a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to make the order; and

(b) except where subsection 26 (11) of the *Administrative Appeals Tribunal Act 1989* applies—have endorsed on it or attached to it a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

15 “(4) The validity of a decision referred to in subsection (2) or (3) is not to be taken to be affected by a failure to comply with that subsection.

“Division 2—General”.

Repeal

19. Section 53 of the Principal Act is repealed.

20 **Further amendments**

20. The Principal Act is amended as set out in the Schedule.

PART III—TRANSITIONAL PROVISIONS

Register

25 21. The Register to be kept under section 24 of the Principal Act as amended by this Act is a continuation of the Register kept under section 21 of the Principal Act before the commencement of this Act.

Continuation of registration

30 22. A person who, immediately before the commencement of this Act, was registered as a pharmacist under the Principal Act continues to be registered under the Principal Act as amended by this Act on the same terms and subject to the same conditions as applied to his or her registration immediately before the commencement of this Act.

Persons granted provisional registration

35 23. A person who, immediately before the repeal of section 29 of the Principal Act by this Act, held provisional registration under that section shall, on the commencement of this Act, be taken to be a person who has

been granted interim registration in accordance with section 13 of the Principal Act as amended by this Act.

Failure to pay annual fee under repealed provisions

5 **24. (1)** A failure by a registered pharmacist to pay a fee that became payable by him or her under section 26 of the Principal Act as in force immediately before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 24E of the Principal Act as amended by this Act.

10 **(2)** A pharmacist who was not registered under the Principal Act immediately before the commencement of this Act because his or her registration was cancelled for a failure by the person to pay a fee that had become payable by him or her under section 26 of the Principal Act as in force immediately before the commencement of this Act shall be taken to have had his or her registration cancelled for a failure to pay a fee which had become payable by him or her under section 24E of the Principal Act as amended by this Act.

Applications for registration

20 **25.** An application for registration under the Principal Act as in force immediately before the commencement of this Act that had not been determined before the commencement of this Act shall be taken to be an application for registration under the Principal Act as amended by this Act and any inquiry or investigation for the purposes of the application may be continued or completed.

Continuation of inquiries and reviews

25 **26. (1)** The provisions of the Principal Act as in force immediately before the commencement of this Act continue to apply in relation to an inquiry or review commenced under the Principal Act and pending immediately before the commencement of this Act.

30 **(2)** Any order, decision or determination resulting from an inquiry or review to which this section applies shall be taken to have been made under the Principal Act as amended by this Act and to have effect accordingly.

Complaints relating to previous conduct

35 **27. (1)** Subject to subsection (2), an inquiry may be held under the Principal Act as amended by this Act with respect to conduct or any other matter or thing that occurred before, or partly before and partly after, the commencement of this Act.

(2) An inquiry referred to in subsection (1) may only be held if it is an inquiry that could have been held under the Principal Act as in force immediately before the commencement of this Act.

Existing orders

28. An order having effect under a provision of the Principal Act repealed by this Act is, by this section, converted to an equivalent order under the Principal Act as amended by this Act.

5

PART IV—MISCELLANEOUS

Renumbering of provisions

29. (1) The amended Act is further amended as provided by this section.

10

(2) The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.

(3) Any provision of the amended Act that refers to a section of that Act that has been renumbered by subsection (2) is amended by omitting that reference and substituting a reference to the section as so renumbered.

15

(4) A reference in a provision of a law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a section of the amended Act that has been renumbered by subsection (2) shall (except as regards the operation of the section before it was so renumbered) be construed as a reference to that section as so renumbered.

20

(5) In this section, “amended Act” means the Principal Act as amended by sections 4 to 20 (inclusive).

SCHEDULE

Section 20

FURTHER AMENDMENTS

Paragraph 5 (4) (a)—

(a) Insert “or she” after “he”.

(b) Insert “or her” after “his”.

Paragraph 5 (4) (b)—

Insert “or her” after “him” (wherever occurring).

Paragraph 5 (4) (c)—

Insert “or she” after “he”.

Paragraph 7 (1) (a)—

Omit “Chairman”, substitute “Chairperson”.

SCHEDULE—continued**Paragraph 7 (2) (a)—**

Insert “or she” after “he”.

Paragraph 7 (2) (b)—

(a) Insert “or she” after “he”.

(b) Omit “his”, substitute “the”.

Subsection 7 (3)—

Omit “Chairman”, substitute “Chairperson”.

Subsection 8 (1)—

Insert “or she” after “he”.

Subsection 8 (2)—

Omit “that” (last occurring), substitute “the”.

Subsection 9 (2)—

(a) Insert “or she” after “he”.

(b) Insert “or her” after “him”.

Subsection 25 (1)—

(a) Insert “or her” after “him”.

(b) Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Section 27—

(a) Omit “one”, substitute “1”.

(b) Omit “Chairman”, substitute “Chairperson”.

Subsection 28 (3)—

Omit “prescribed”, substitute “determined”.

Section 35—

Insert “or she” after “he” (wherever occurring).

Section 35A—

(a) Omit “deceased”, substitute “registered”.

(b) Omit “his” (first occurring).

(c) Omit “, administrator or trustee of his estate”, substitute “or executrix of the will of the deceased pharmacist, or an

SCHEDULE—continued

administrator, administratrix or trustee of the estate of the deceased pharmacist.”.

- (d) Omit “administrator” (second occurring), substitute “executrix, administrator, administratrix”.

Subsection 36 (1)—

Omit “Chairman may, if he”, substitute “Chairperson may, if he or she”.

Section 40—

- (a) Omit “him with his”, substitute “the practitioner with his or her”.
(b) Insert “or her” after “his” (second and last occurring).

Section 41—

Insert “or her” after “him” (wherever occurring).

Paragraph 42 (a)—

Insert “or her” after “his”.

Paragraph 42 (b)—

Insert “or her” after “his” (wherever occurring).

Paragraph 42 (c)—

Insert “or herself” after “himself”.

Paragraph 42 (d)—

Insert “or she” after “he”.

Paragraph 42 (f)—

Insert “or her” after “his”.

Paragraph 42 (g)—

Insert “or her” after “his”.

Section 43—

Insert “or her” after “his”.

Subsection 44 (2)—

- (a) Omit “the last preceding subsection”, substitute “subsection (1),”.
(b) Insert “or her” after “his”.

SCHEDULE—continued**Paragraph 45 (2) (b)—**

Insert “or her” after “his”.

Subsection 46 (4)—

(a) Insert “or herself” after “himself”.

(b) Omit “thereof”, substitute “of this section”.

Subsection 47 (1) (definition of “controlled therapeutic substance”)—

Omit “-1959”.

Paragraph 47 (2) (a)—

Omit “-1959”.

Subsection 48 (1)—

Omit “prescribed”, substitute “determined”.

Paragraph 51 (a)—

Insert “or her” after “his”.

Paragraph 51 (b)—

Omit “Chairman”, substitute “Chairperson”.

NOTE

1. Reprinted as at 31 March 1991. See also Act No. 14, 1993.

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