

PHARMACY.

13^d Elizabeth II., No. LXXII.

No. 72 of 1964.

AN ACT to Consolidate and Amend the Law relating to Pharmacy and the Registration of Pharmaceutical Chemists and of Pharmacies; and for incidental and other purposes.

[Assented to 11th December, 1964.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY PROVISIONS.

1. This Act may be cited as the *Pharmacy Act*, Short title. 1964.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Arrange-
ment.

3. This Act is divided into Parts as follows—

PART I.—PRELIMINARY PROVISIONS.

PART II.—ADMINISTRATION.

PART III.—REGISTRATION OF PHARMACEUTI-
CAL CHEMISTS AND PHARMACIES.

PART IV.—PROVISIONS RELATING TO THE
THE PRACTICE OF PHARMACY.

PART V.—MISCELLANEOUS PROVISIONS.

Repeal and
savings.

4. (1) The Acts specified in the First Schedule to this Act are repealed.

(2) Without limiting the provisions of the Interpretation Act, 1918, generally and in particular the provisions of sections fifteen and sixteen of that Act, it is hereby declared that the repeal effected by this Act does not affect any document or other instrument made or anything whatsoever done under any provision of an Act repealed by this Act or under any corresponding former provision, and the document or other instrument or the thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document or other instrument was made or the thing was done.

Interpreta-
tion.

5. (1) In this Act unless the context requires otherwise—

“Company” means a company incorporated pursuant to the Companies Act, 1961, or

- pursuant to any corresponding previous enactment;
- “Council” means the Pharmaceutical Council of Western Australia constituted under this Act;
- “dentist” means a person who is a dentist registered under the Dentists Act, 1939;
- “dispensing” in relation to a medicine or a drug means supplying the medicine or drug on and in accordance with a prescription duly given by a medical practitioner, a dentist, or a registered veterinary surgeon;
- “medical practitioner” means a person who is a medical practitioner registered under the Medical Act, 1894, or any corresponding previous enactment;
- “pharmaceutical chemist” means a person who is a pharmaceutical chemist registered under the provisions of this Act, or of an Act repealed by this Act, or of the Acts of which an Act repealed by this Act was a compilation;
- “pharmacy”, in relation to premises, means a shop or other premises, or the part of a shop or other premises, in which the business of a pharmaceutical chemist is, or is intended to be, carried on;
- “register” means the Pharmaceutical Register of Western Australia required to be kept under this Act;
- “registered veterinary surgeon” means a person who is registered, or who is deemed to be registered, as a veterinary surgeon under the Veterinary Surgeons Act, 1960;
- “registrar” means the registrar appointed by the Council under this Act; and
- “sale” includes exposing or offering for sale or having in possession for sale and also delivery, whether with or without consideration, in any shop or store or premises

appurtenant thereto by the keeper thereof or by his servant or agent; and the verb "to sell" has a corresponding meaning.

(2) In this Act the business of a chemist and druggist includes, in relation to a Friendly Society, a dispensary for the purpose of dispensing medicines.

PART II.—ADMINISTRATION.

Pharmaceutical Society established.

6. (1) The Pharmaceutical Society established in the State at the commencement of this Act shall be the Pharmaceutical Society of Western Australia, and may retain that name and title.

(2) Every pharmaceutical chemist shall be a member of the Pharmaceutical Society of Western Australia.

Constitution of Council.

7. (1) For the purposes of this Act and for the management of the Pharmaceutical Society of Western Australia there shall be a Council by the name of the "Pharmaceutical Council of Western Australia", which Council shall consist of seven members.

(2) Without limiting the operation of section four of this Act, the persons who immediately before the date of the commencement of this Act were members of the Council shall, subject to this Act, continue to hold office as members thereof until the expiration of the period for which they were elected, and the person who immediately before that date was the president of the Council shall, subject to this Act, continue to hold that office until the expiration of the term of office for which he was elected.

Council a body corporate.

8. (1) The Council shall be a body corporate, with perpetual succession and a common seal, and shall be capable in law of suing and being sued in its corporate name, and may acquire, hold and dispose of real and personal property, and may do and suffer all that bodies corporate may do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Council affixed to any document or other instrument and shall deem that it was duly affixed.

(3) The Council is deemed to have the powers of an institution within the meaning of the Public Institutions and Friendly Societies Lands Improvement Act, 1892, and with the approval of the Governor may exercise in respect of lands vested in the Council all or any of the powers conferred on institutions by that Act; but the provisions of that Act requiring the concurrence of three-fourths of the members of an institution shall for the purposes of this Act be deemed not to apply.

9. (1) The Council may, with the approval of the Governor, sell, lease or exchange any lands vested in it, and pay or receive money by way of equality of exchange.

Powers of Council.

(2) The powers of selling, exchanging, mortgaging or leasing lands that are conferred on the Council by this Act extend to land held in trust for any special purpose, notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the like trusts, so far as may be, as the land so disposed of, and no power shall be exercised under this section without the approval of the Governor.

(3) The Council may promote, establish and maintain or assist in the promotion, establishment and maintenance of schools of pharmacy or courses of instruction for pharmaceutical students, and may use all or any part of the funds of the Council for those purposes.

10. (1) At the expiration of the term for which the members of the Council in office at the commencement of this Act are elected—

Election of Council.

(a) pharmaceutical chemists may elect, in the manner and for such term or varying terms and subject to such conditions as to

eligibility for and tenure of office, as shall be prescribed, seven of their number to form and be the members of the Council; and

- (b) the members of the Council formed pursuant to the provisions of paragraph (a) of this subsection shall elect, as often as shall be necessary, for such respective terms and subject to such conditions as to eligibility for and tenure of office, as shall be prescribed, two of their number to the respective offices of president and deputy president.

(2) The provisions of this section shall not affect the validity of the constitution or the powers or functions of the Council in office at the date of the commencement of this Act, or the term of office of its members.

Council
members
may be
removed
from office.

11. The Governor may at any time and from time to time remove from office the president or the deputy president or any other member of the Council.

Resignation
or disquali-
fication.

12. (1) Any member of the Council may resign from his office by notice in writing signed by him.

(2) Any member of the Council who is or becomes bankrupt or insolvent, or is convicted of an indictable offence or of an offence against this Act, or becomes permanently incapable of performing his duties as a member of the Council, or becomes a person who would not be qualified to be appointed a member, or whose name is erased from the register pursuant to this Act, shall be disqualified from holding office as a member of the Council.

13. (1) The office of a member of the Council becomes vacant if the member—

Vacancies in office.

- (a) is or becomes disqualified under this Act;
- (b) is absent, except on leave granted by the Council, from three consecutive meetings of the Council;
- (c) dies; or
- (d) resigns his office pursuant to the provisions of this Act.

(2) Where the office of a member of the Council becomes vacant, the pharmaceutical chemists may in the manner prescribed, elect to that office a pharmaceutical chemist, who shall hold office only for the residue of the term during which the member in lieu of whom he is elected would have held office, and no longer.

14. (1) At every meeting of the Council the president, or in his absence the deputy president, shall preside, but if both the president and deputy president are absent from any meeting of the Council, the members present shall elect one of their number so present to be chairman of that meeting.

Meetings of the Council.

(2) Each member of the Council shall have one vote, and all questions at any meeting of the Council shall be decided by a majority of the votes of the members present.

(3) A quorum of the Council is constituted by not less than four members, and no action or proceedings of the Council is invalidated by reason only that there is a vacancy or vacancies in the membership of the Council provided that the number of members be not reduced below four.

Appointment
of officers
and
examiners.

15. (1) The Council shall appoint a registrar and may appoint such other officers and such examiners as it considers necessary for carrying out the provisions of this Act, and may remove any of those officers or examiners at any time.

(2) The remuneration of the registrar, other officers, and examiners shall be paid out of the funds of the Council, and shall be at such rates as the Council may from time to time determine.

(3) Without limiting the operation of section four of this Act the persons who immediately before the date of the commencement of this Act were respectively the registrar or other officer of the Council or an examiner shall be deemed each to have been appointed in accordance with the provisions of this Act to those respective offices, and shall subject to this Act continue to hold those respective offices under this Act.

Funds of the
Council.

16. (1) The funds of the Council shall consist of—

- (a) the fees prescribed by this Act and the regulations made under this Act and payable to the Council;
- (b) grants (if any) by the Government of the State, and all gifts, donations, devises and bequests made by any person to the Council, but subject to any trusts declared in relation thereto; and
- (c) all money or property that comes into the hands of, or is acquired by, the Council under and for the purposes of this Act.

(2) The funds of the Council may be applied by it for—

- (a) any of the purposes of this Act;
- (b) the furtherance of education and research in pharmacy; and
- (c) any other purpose that in the opinion of the Council will better enable it to exercise and perform its powers and duties under

this Act and facilitate the carrying out or giving effect to the objects and purposes of this Act.

17. (1) For the purposes of this Act, the Council may by writing under the hand of the president or deputy president summon any person to attend the Council at a time and place named in the summons and to give evidence and produce any books, documents or writings in his custody or control that by such summons he is required to produce.

Council may
summon
person to
give
evidence,
etc.

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

(3) Any member of the Council may administer an oath to, or take a solemn declaration from, any person appearing as a witness before the Council, and may examine or question such person upon oath.

18. (1) A person who upon being served with a summons to attend the Council fails without reasonable excuse to attend the Council, or to produce any books, documents or writings in his custody or control that by such summons he was required to produce, commits an offence against this Act.

Penalties for
failure to
obey sum-
mons, or to
be sworn, or
for giving
false
testimony.

Penalty: Fifty pounds.

(2) A person appearing as a witness before the Council who refuses to be sworn or to make a solemn declaration or to answer any question relevant to the proceedings before the Council put to him by any member of the Council, commits an offence against this Act.

Penalty: Fifty pounds.

(3) If any person appearing as a witness before the Council wilfully or knowingly makes any false statements during his examination or in his solemn declaration, or utters or attempts to utter, or puts off as true, any diploma, degree, licence, certificate, or other document or writing, that is false, forged or counterfeit, that person is guilty of a misdemeanour and upon conviction is liable to be imprisoned for any term not exceeding two years with or without hard labour, or may be dealt with under any other law applicable to his offence.

Exemption
from
liability.

19. No act, matter or thing done or omitted to be done in good faith by the Council or by any member of the Council, or by the registrar or any other officer of the Council, in the administration or intended administration of this Act, or in the exercise or performance or intended exercise or performance of any of its or his powers, functions or duties under this Act, shall subject the Council or any member, or the registrar or any officer of the Council, to any liability in respect thereof.

PART III.—REGISTRATION OF PHARMACEUTICAL CHEMISTS AND PHARMACIES.

Register.

20. (1) The Council shall keep a register to be called "The Pharmaceutical Register of Western Australia", which register shall be in the form contained in the Second Schedule to this Act.

(2) The Council shall, upon the application of any person entitled to be registered as a pharmaceutical chemist, register or cause to be registered the name of the applicant, together with his residence or place of business, his qualification and the date of the registration, in the register.

(3) The register kept by the Council and in use immediately before the date of the commencement of this Act under the provisions of the Acts repealed

by this Act shall be deemed to be the register required to be kept under and for the purposes of this Act, and subject to the provisions of this Act shall continue to be kept by the Council as such register.

(4) Every pharmaceutical chemist whose name, at the date of the commencement of this Act, is registered in the register kept by the Council and in use immediately before that date under the provisions of the Acts repealed by this Act, shall be and be deemed to be a pharmaceutical chemist registered under the provisions of this Act.

21. (1) A person is entitled to apply to the Council for registration as a pharmaceutical chemist under this Act if he has attained the age of twenty-one years, and—

Qualifica-
tions for
registration.

(a) he has—

(i) completed a prescribed course of practical training of not less than two thousand hours' duration with a pharmaceutical chemist or chemists in accordance with such conditions as are prescribed and in premises that are approved by the Council; and

(ii) passed all prescribed examinations or such examinations as in the opinion of the Council are substantially equivalent to those prescribed examinations; or

(b) he has served for at least four years as an apprentice in the business of a chemist and druggist or pharmaceutical chemist in any State of the Commonwealth or in the Dominion of New Zealand, in the keeping of open shop for the compounding and dispensing of prescriptions of legally qualified medical practitioners, and has

passed all prescribed examinations or such examinations as in the opinion of the Council are substantially equivalent to those prescribed examinations; or

- (c) he has, in special circumstances proved to the satisfaction of the Council to exist, completed some other course of training approved by the Council, and has passed an examination or examinations prescribed or approved by the Council; or
- (d) he holds a certificate or diploma of competency as a pharmaceutical chemist, or as a chemist and druggist, from any society, college or board of pharmacy recognised by the regulations, which certificate or diploma was issued to him to show that he has passed an examination conducted in the English language and of a standard that in the opinion of the Council is substantially equivalent to that prescribed for the registration of a pharmaceutical chemist in this State.

(2) A person who claims to be registered as a pharmaceutical chemist under this Act by virtue of the qualification prescribed by paragraph (b) of subsection (1) of this section, shall not be so registered unless he proves to the satisfaction of the Council that—

- (a) the period that by that paragraph he is required to serve as an apprentice was duly served by him under a contract of apprenticeship which was made and endorsed by the Council in accordance with the provisions of the Acts repealed by this Act, before the twenty-ninth day of March, nineteen hundred and sixty-three; and
- (b) his service as such an apprentice under the contract commenced before that date,

and that he obtained that qualification on or before the thirty-first day of December, nineteen hundred and sixty-eight.

(3) A person who applies for registration by virtue of the qualification prescribed by paragraph (d) of subsection (1) of this section, shall lodge with his application, for the inspection of the Council, the certificate or diploma entitling him so to apply.

22. (1) When any person has applied to the Council to be registered as a pharmaceutical chemist under this Act, and has proved to the satisfaction of the Council that—

Registration
of pharma-
ceutical
chemists.

- (a) he has attained the age of twenty-one years;
- (b) he is entitled to apply for registration by virtue of compliance with the requirements of section twenty-one of this Act;
- (c) the certificate or diploma testifying to his qualification was after examination duly obtained by him from a society, college or board of pharmacy recognised by the regulations, and since obtaining that certificate or diploma his name has not been removed from the register of any country for any cause that would disqualify him from being registered under this Act; and
- (d) he has such an adequate knowledge of the English language as to be able readily and intelligibly to speak, read and write that language,

the Council may register the person as a pharmaceutical chemist under this Act by causing his name to be registered in the register in accordance with the provisions of subsection (2) of section twenty of this Act, or the Council may refuse to register the person.

(2) A person registered as a pharmaceutical chemist under this Act may, upon payment of the prescribed fee, obtain from the Council a certificate, in the form contained in the Third Schedule to this Act that he has been duly registered as a pharmaceutical chemist.

(3) Where the Council refuses to register a person as a pharmaceutical chemist under this section, that person may appeal against such refusal in the manner prescribed by section twenty-seven of this Act and the regulations to a Judge of the Supreme Court.

Pharmacies
to be
registered.

23. (1) After the expiration of one month from the coming into operation of this Act—

- (a) no pharmaceutical chemist, whether as principal or manager for a principal; and
- (b) no company, or friendly society registered under the Friendly Societies Act, 1894, respectively engaged in carrying on the business of a chemist and druggist or of a pharmaceutical chemist by and under the immediate supervision of a licensed pharmaceutical chemist,

shall carry on the business of a pharmaceutical chemist or of a chemist and druggist in any pharmacy, unless that pharmacy is registered in accordance with the provisions of this section.

(2) The Council may upon the application of a pharmaceutical chemist, or of a company or friendly society referred to in subsection (1) of this section, register in his or its name any pharmacy in which the Council is satisfied that the pharmaceutical chemist practises or carries on, or intends to practise or carry on, business as a pharmaceutical chemist, either as principal or manager for a principal, or the company or friendly society carries on or intends to carry on the business of a chemist and druggist or of a pharmaceutical chemist, or the Council may refuse the application or may withhold registration of the pharmacy until the applicant complies with such conditions as may be prescribed.

(3) The registration of a pharmacy under this section shall, unless sooner cancelled, remain in force until the thirtieth day of June next following the date of the registration, and the Council may, upon payment of the prescribed fee, issue a certificate in the prescribed form of registration of a pharmacy.

(4) Where the Council refuses to register a pharmacy under this section or withholds registration until compliance with prescribed conditions, the applicant may appeal against the decision of the Council in the manner prescribed by section twenty-seven of this Act and the regulations to a Judge of the Supreme Court.

24. The fees for registration as a pharmaceutical chemist and for registration of a pharmacy and the issue of any certificate of registration under this Act, or for any examination required by this Act, shall be those prescribed from time to time by the regulations, and shall be paid to the Council previously to any such registration or examination or the issue of any such certificate.

Fees for
registration.
etc.

25. (1) The Council shall, in the month of January in every year, cause to be printed, published and offered for sale, at a reasonable price, a correct list of all pharmaceutical chemists in alphabetical order according to their surnames, with their respective residences or places of business, and shall also cause such list to be published at the same time in the *Gazette*.

List of
pharma-
ceutical
chemists to
be published.

(2) A copy of the *Gazette* containing the list referred to in this section shall be *prima facie* evidence in all courts and in all legal proceedings whatsoever that the persons specified in that list are qualified and registered according to the provisions of this Act, and the absence of the name of any person from that list shall be *prima facie* evidence that such person is not a pharmaceutical chemist.

(3) A certificate under the hand of the registrar certifying that a person is duly qualified and registered according to the provisions of this Act shall be *prima facie* evidence in all courts and in all legal proceedings that the person is so qualified and registered.

PART IV.—PROVISIONS RELATING TO THE
PRACTICE OF PHARMACY.

Licence to
practise as a
pharma-
ceutical
chemist.

26. (1) A pharmaceutical chemist shall not practise or carry on business as a pharmaceutical chemist or, as agent, employee or otherwise, be engaged with any other person in the practice or business of a pharmaceutical chemist, except under the authority of a licence from the Council as prescribed by the regulations and unless he is domiciled in the State.

Penalty: Fifty pounds.

(2) An application for a licence under this section shall be made to the Council in the prescribed manner and be accompanied by the prescribed fee, and the Council may in its discretion—

- (a) grant the licence;
- (b) refuse the licence; or
- (c) grant the licence subject to the applicant first complying with and fulfilling such conditions as the Council considers it advisable or necessary in the public interest to impose.

(3) An applicant for a licence under this section whose application is refused, or is granted subject to conditions imposed by the Council, may appeal against the decision of the Council in the manner prescribed by section twenty-seven of this Act and the regulations to a Judge of the Supreme Court.

(4) Every licence under this section shall be issued in the prescribed form and shall, unless sooner cancelled, remain in force until the thirtieth day of June next following the date of the issue thereof.

(5) Any registered pharmaceutical chemist who is convicted of an offence under subsection (1) of this section is liable, at the discretion of the Council, to have his name erased from the register for such period and subject to such conditions as the Council may determine, but such chemist may appeal against the decision of the Council in the manner prescribed by section twenty-seven of this Act and the regulations to a Judge of the Supreme Court.

27. (1) Where under the provisions of this Act Appeals.
an appeal lies from any decision of the Council to a Judge of the Supreme Court, the person aggrieved by the decision may within three months after the date thereof by notice in writing require the Council to furnish him with a statement in writing of its reasons for the decision, and the Council shall as soon as reasonably practicable after such request furnish that person with the statement as required.

(2) Within one month after receiving the statement referred to in subsection (1) of this section, the aggrieved person may file in the Supreme Court notice of appeal against the decision of the Council, and the proceedings of the appeal shall be conducted within the time and in the manner prescribed.

(3) The hearing and determination of the appeal shall be in the nature of a rehearing, and the Judge hearing the appeal may confirm, quash, or vary the decision of the Council.

(4) The decision of the Judge shall be final and the Council shall give effect to that decision.

Limitation
as to places
of business.

28. A pharmaceutical chemist shall not practise or carry on business as a pharmaceutical chemist or druggist, or either as agent, employee or otherwise, be engaged with any other person in such practice or business in more than two pharmacies concurrently.

Penalty: One hundred pounds.

Alterations
to register.

29. (1) The Council shall from time to time make all necessary alterations in the register relating to the qualifications and addresses of pharmaceutical chemists, and may write or cause to be written a letter addressed to any pharmaceutical chemist, according to his last known address, to inquire whether he has changed his residence or place of business.

(2) A letter under this section shall be sent by prepaid registered post, and if no answer to the letter is received within three months from the date on which it was posted, the Council may erase from the register the name of the pharmaceutical chemist to whom the letter was addressed.

(3) The Council may restore to the register the name of a pharmaceutical chemist that has been erased pursuant to this section, upon the personal application of that pharmaceutical chemist and production of his certificate or satisfactory proof of his former registration, and payment of all fees in arrear.

Notice to be
given of
change of
address or
death.

30. (1) A pharmaceutical chemist who changes his place of residence, business or employment shall thereupon notify the change at the time and in the manner prescribed to the Council, and upon being so notified the Council shall amend the register accordingly.

(2) The Registrar General of Western Australia, on receiving information of the death of a pharmaceutical chemist, shall thereupon transmit notice thereof by post to the registrar of the Council, and the registrar on receipt of such notice shall inform the Council of the death and the Council shall remove the name of that chemist from the register.

31. A pharmaceutical chemist who is engaged to take charge of a pharmacy for a period exceeding three days during which the pharmacy is open for business, and the person so engaging him, shall notify the registrar of the engagement within the prescribed time and in the prescribed manner.

Notification of engagement of chemist.

32. (1) If a pharmaceutical chemist is—

Council may inquire into conduct of chemists.

- (a) in the opinion of the Council, guilty of carelessness, incompetence, impropriety, misconduct, or infamous conduct, in a professional respect; or
- (b) in the opinion of the Council, guilty of a breach of the regulations relating to advertising by pharmaceutical chemists; or
- (c) convicted of any offence that, in the opinion of the Council renders him unfit to practise as a pharmaceutical chemist; or
- (d) addicted to alcohol or any deleterious drug to a degree that renders him unfit so to practise,

the Council may serve upon that pharmaceutical chemist a notice requiring him to attend before the Council at a time and place specified in the notice to show cause why he should not be dealt with in accordance with the provisions of subsection (2) of this section, and specifying the opinion of the Council and the grounds of that opinion with particularity sufficient to enable the pharmaceutical chemist to show cause.

(2) If a pharmaceutical chemist upon whom a notice is served pursuant to subsection (1) of this section fails to show cause to the satisfaction of the Council why it should not do so, the Council may inflict any one or more of the following penalties—

- (a) order that the name of the pharmaceutical chemist be erased from the register and so erase his name accordingly;
- (b) suspend the pharmaceutical chemist from practising as a chemist for a period not exceeding twelve months;
- (c) censure the pharmaceutical chemist;
- (d) impose a fine not exceeding Twenty pounds to be paid by the pharmaceutical chemist;
- (e) require the pharmaceutical chemist to give such undertaking as the Council considers just;
- (f) order the pharmaceutical chemist to pay any costs and expenses of and incidental to the inquiry by the Council.

(3) The Council may erase from the register the name of any pharmaceutical chemist who, after adequate inquiry, it considers is unfit by reason of physical or mental incapacity to practise as a pharmaceutical chemist.

(4) Any person who is aggrieved by any decision of the Council made pursuant to the powers conferred on it by the provisions of subsections (2) and (3) of this section may appeal within the time and in the manner prescribed against that decision to a stipendiary magistrate, who on such appeal may affirm, set aside, or vary the decision.

(5) Where any fine, costs or expenses are ordered to be paid by any pharmaceutical chemist under the provisions of this section, the fine, costs or expenses shall be recoverable in any court of competent jurisdiction as a debt due by him to the Council.

33. (1) When the name of a pharmaceutical chemist has been erased from the register pursuant to subsection (2) or subsection (3) of section thirty-two of this Act, any licence issued to that pharmaceutical chemist under the provisions of section twenty-six of this Act shall be deemed to be thereby cancelled.

Cancellation
of licence.

(2) The Council may at any time after the name of a pharmaceutical chemist has been erased from the register pursuant to subsection (2) or subsection (3) of section thirty-two of this Act, subject to the regulations and upon payment of the prescribed fee, restore the name of that pharmaceutical chemist in the register, and thereupon the licence of that pharmaceutical chemist deemed to have been cancelled by virtue of subsection (1) of this section, shall again become of full force and effect, unless it has expired by effluxion of time.

34. A person shall not employ a person whose name is erased from the register under the provisions of section thirty-two of this Act in any capacity in the business or at the pharmacy where the latter person is carrying on business or is employed when his name is so erased.

Restriction
on employ-
ment of
person whose
name is
erased from
register.

35. (1) The Council shall control and direct all examinations that it considers requisite for the purposes of this Act in such subjects as may from time to time be prescribed.

Examina-
tions to be
directed by
Council.

(2) The Council may, upon the results of the examinations held under this Act, grant or refuse all certificates of competency, skill, knowledge and qualification to practise the business or calling of a pharmaceutical chemist.

PART V.—MISCELLANEOUS PROVISIONS.

Persons
entitled
to carry on
business as
chemists.

36. (1) Subject to the provisions of subsection (2) of this section, no person other than—

- (a) a pharmaceutical chemist; or
- (b) a company, or a friendly society registered under the Friendly Societies Act, 1894, and respectively engaged in carrying on the business of a chemist and druggist or of a pharmaceutical chemist by and under the immediate supervision of a licensed pharmaceutical chemist,

shall carry on the business of a chemist and druggist or of a pharmaceutical chemist, or assume or use or exhibit any title, direction or sign, whether including any of the words, “pharmacy”, “pharmaceutical”, “drug store”, “dispensary” or otherwise, that can be considered to mean that he is carrying on that business.

Penalty: One hundred pounds or imprisonment for twelve months.

(2) (a) Nothing in this section shall extend to or be deemed to give any right to a company or friendly society to carry on the business of a chemist and druggist or of a pharmaceutical chemist other than a company or friendly society that at the date of the commencement of this Act is registered and carrying on such business under the immediate personal supervision of a pharmaceutical chemist, and except as so provided, it shall not be lawful for any company, friendly society or association of persons, not being licensed pharmaceutical chemists, to carry on or assist in the carrying on of such business as mentioned in this paragraph, or to assume or use or exhibit any title, direction or sign, whether including any of the words, “pharmacy”, “pharmaceutical”, “drug store”, “dispensary” or otherwise, that can be considered to mean that such

company, friendly society or association of persons is carrying on any such business, or that any of those persons is qualified as a pharmaceutical chemist.

(b) Every company or friendly society which is at the date of the commencement of this Act carrying on the business of a chemist and druggist or of a pharmaceutical chemist under any Act repealed by this Act, is by force of this paragraph limited to the carrying on of that business at the place where the business was carried on at that date; but where the Minister is satisfied, having regard to the circumstances of the case, that sufficient necessity exists for the company or friendly society to vacate that place, that company or friendly society, as the case may be, may carry on that business at such other place in the immediate vicinity of the place so vacated, as the Minister may, from time to time, approve.

(c) The legal personal representative of a pharmaceutical chemist who has died whilst carrying on the business of a chemist and druggist or of a pharmaceutical chemist, or any person seizing and taking possession of the stock-in-trade of a pharmaceutical chemist under a mortgage, bill of sale or other security, or the liquidator of any company in the course of being wound up, or any mortgagee or receiver seizing and taking possession of the stock-in-trade of a company under a mortgage, bill of sale or other security, may continue to carry on the business of the pharmaceutical chemist or of the company, as the case may be, for a period not exceeding twelve months, or for such further period as the Council may permit upon and subject to the express condition that such business is so carried on by and under the immediate personal supervision and management of a duly licensed pharmaceutical chemist.

(d) Nothing in this section operates—

(i) to prevent a person, not being a company or a friendly society or a registered or licensed pharmaceutical chemist who was at the date of the commencement of the Pharmacy and Poisons Act Amendment Act, 1937, and still is at the date of the commencement of this Act, carrying on the

business of a chemist and druggist, from continuing himself in person to carry on that business in the same place, provided he does so constantly under the immediate personal supervision of a licensed pharmaceutical chemist until he ceases to carry on that business in that place, or sells, assigns or otherwise disposes of that business;

- (ii) to prevent a medical practitioner from supplying or selling any medicine or drug to a patient whom he is treating and for the purpose of that treatment, or, where it is not reasonably practicable in the circumstances to obtain any medicine or drug at a pharmacy, from supplying or selling the medicine or drug to any person;
- (iii) to permit the carrying on by a medical practitioner of the business of a pharmaceutical chemist.

Certain titles to be used only by chemists.

37. (1) No person other than a pharmaceutical chemist shall assume or use the title of pharmaceutical chemist, pharmacist, pharmacist, chemist and druggist, dispensing chemist, dispensing druggist, homoeopathic chemist or other words of like import, or use or exhibit any title, term or sign that can be construed to mean that the person is qualified as a pharmaceutical chemist.

(2) Except in cases of emergency, a person shall not accept any prescription for preparation of medicine otherwise than at a pharmacy at which the medicine shall be prepared and supplied.

(3) A person who contravenes any provision of this section commits an offence against this Act.

Penalty: One hundred pounds or imprisonment for twelve months.

38. (1) A pharmaceutical chemist shall not—

Business of
pharma-
ceutical
chemist to be
carried on by
principal or a
qualified
assistant.

- (a) carry on or attempt to carry on the business of a chemist or druggist, or pharmaceutical chemist;
- (b) assume or use the title of a pharmaceutical chemist, pharmacist, pharmacist, chemist and druggist, dispensing chemist, homoeopathic chemist, or other title of like import; or
- (c) use or exhibit any title, term or sign on any shop, house or premises that can be construed to mean that the business of a pharmaceutical chemist is carried on therein,

unless the business carried on by him is conducted by and under the personal supervision of himself or of an assistant who is a pharmaceutical chemist.

(2) Every pharmaceutical chemist and every company or friendly society engaged in carrying on the business of a chemist and druggist or of a pharmaceutical chemist under this Act, and every person or assistant under whose conduct or management the business or any branch of the business of a pharmaceutical chemist or any pharmacy 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 that business is carried on, and on every label, invoice or other document that is issued or used in or in connection with that business.

(3) A person who fails to comply with or acts contrary to any of the provisions of this section commits an offence against this Act, and is liable upon conviction to a penalty of fifty pounds, and in addition five pounds for every day during which that failure or act continues.

Dispensing
of medicines.

39. (1) A person shall not carry out or permit any person in his employ to carry out, the dispensing of any medicine or drug unless he is a pharmaceutical chemist or a medical practitioner, or a person who carries out such dispensing under the immediate personal supervision of a pharmaceutical chemist or medical practitioner, or unless he is a dentist or veterinary surgeon acting in the course of his profession.

(2) For the purposes of this section a person engaged in dispensing medicines and drugs in a pharmacy or medical practice is deemed to be under the immediate personal supervision of a pharmaceutical chemist or, as the case may be, a medical practitioner, if the number of persons, not being pharmaceutical chemists or medical practitioners, so engaged does not exceed two to each pharmaceutical chemist or medical practitioner engaged and exercising immediate personal supervision in that pharmacy or, as the case may be, that medical practice.

(3) The provisions of subsection (2) of this section do not apply to the dispensing of medicines and drugs when carried out in a hospital as part of the lawful functions of and services provided by hospitals.

Use of
automatic
machines
prohibited.

40. (1) Any person who—

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

commits an offence against this Act.

Penalty: Fifty pounds.

(2) In this section the term "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.

41. Any registrar under this Act, or other person, who wilfully makes or causes to be made any false entry in the register; and any person who wilfully procures or attempts to procure himself to be registered under this Act by making or producing, or causing to be made or produced, any false certificate or diploma of competency or other certificate, or declaration, either verbally or in writing; and any person who aids or assists therein, commits an offence against this Act.

Penalty on fraudulent registration.

Penalty: One hundred pounds or imprisonment for twelve months.

42. (1) The Council may, in its corporate name, by the registrar or any person authorised for the purpose in writing under the hand of the president, commence, carry on, prosecute and defend any action, complaint, information or proceeding whatsoever, both civil and criminal.

Legal proceedings by Council.

(2) All courts, judges and persons acting judicially shall take judicial notice of the signature of the president to any authorisation under subsection (1) of this section.

43. (1) All offences under this Act for which a pecuniary penalty is imposed shall be summarily punishable, and all penalties imposed by this Act shall be recovered in a summary manner before two or more justices of the peace.

Offences and procedure.

(2) All fees payable under this Act shall be paid to the Council to be applied towards the expenses of carrying this Act into effect.

Time for
taking
proceedings.

44. (1) Proceedings in respect of any offence against this Act shall be commenced within six months after the offence thereby charged is committed.

(2) No order, judgment, warrant or other proceeding made or purporting to be made under or concerning the conviction of any offender against this Act shall be quashed or vacated for want of form only, or be removed or removable by *certiorari* or by writ or process whatsoever into any superior court of the State.

General
penalty.

45. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Act or the regulations made under this Act commits an offence against this Act, and is liable to the penalty expressly mentioned as the penalty for the offence, but where a penalty is not expressly mentioned is liable to a penalty of twenty-five pounds and in the case of a continuing offence, to a further penalty of two pounds ten shillings for each day during which the offence continues.

Evidence.

46. In a prosecution under any of sections thirty-six, thirty-seven or thirty-eight of this Act, the fact that a person is apparently employed or engaged in any shop, house or premises where drugs are kept or stored for sale, or acts in the capacity of a salesman therein, is *prima facie* proof that such person carries on a business as a pharmaceutical chemist in that shop or house or those premises, and personally conducts and supervises the business carried on therein.

Regulations.

47. (1) The Governor, either with or without the recommendation of the Council, may make regulations prescribing all matters that by this Act are

required or permitted to be prescribed, or that may be necessary or convenient to be prescribed, for carrying this Act into operation or for facilitating the operation of this Act.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section, the Governor may make regulations for or with respect to all or any of the following matters—

- (a) regulating the meetings and proceedings of the Council, and the conduct of its business;
- (b) prescribing the manner of and time and place for electing the members and the president and deputy president of the Council;
- (c) prescribing the annual licence fees to be paid by the pharmaceutical chemists to the Council for the purpose of defraying the expenses necessary to carry out the provisions of this Act, the fees for the examination of persons qualifying to be registered as pharmaceutical chemists, and the fees for the registration of pharmaceutical chemists and pharmacies;
- (d) prescribing the subjects for the examination of persons qualifying for registration as pharmaceutical chemists;
- (e) prescribing the conditions under which persons may undertake practical training for the purpose of qualifying to obtain registration as pharmaceutical chemists;
- (f) prescribing the form of agreement to be made between a pharmaceutical chemist and a student in relation to that practical training;
- (g) prescribing the conditions and standards to be complied with in places used for the purpose of, and the records to be kept and furnished in respect to, that practical training;
- (h) prescribing that the certificates or diplomas of competency as a pharmacist or as a chemist and druggist of

any specified society, college or board of pharmacy shall be recognised by the Council;

- (i) regulating the registration and deregistration of pharmaceutical chemists, the registration of pharmacies and the cancellation thereof, and the application for, issue, cancellation, and suspension of licences by the Council;
- (j) regulating appeals against decisions of the Council under this Act and prescribing the procedure to be followed in respect thereof;
- (k) regulating the proceedings of the Council in exercise of any of the powers conferred upon it by sections thirty-two and thirty-three of this Act;
- (l) prescribing conditions to be complied with for the purpose of obtaining registration of pharmacies;
- (m) prescribing the forms to be used for the purposes of this Act, and the fees to be charged and paid in respect of any application, registration, certificate or other proceeding, act or thing provided or required under this Act;
- (n) providing for the facilities and services to be provided in premises in which a pharmaceutical chemist licensed under this Act carries on his business, and the equipment to be provided and maintained in those premises for the storage, custody, dispensing and sale of medicines and drugs;
- (o) providing for general or particular inspections by the Council, or by any officer of the Council authorised in that behalf by writing under the hand of the president or deputy president of the Council, of any books, entries, letters, documents, instruments, or other writings required by this Act to be kept by persons subject to the provisions of this Act;

