

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1336.

19 June 1985

No. 1336.

19 Junie 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

⌘. 69 of 1985: Pharmacy Amendment Act, 1985.

No. 69 van 1985: Wysigingswet op Aptekers, 1985.



## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

Amendment of section 5 of Act 53 of 1974, as amended by section 2 of Act 20 of 1979.

## 3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) **[five]** seven persons appointed by the Minister, of whom—
- (i) **[four]** six shall be pharmacists, **[two]** four of whom shall each be a member of the staff of a university or a technikon (but not members of the same staff) at which provision is made for the training of pharmacists;
- (ii) one shall be a person who is not registered under this Act or the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), or the Nursing Act, 1978 (Act No. 50 of 1978);”;
- (b) by the deletion of paragraph (f) of subsection (1); and
- (c) by the substitution for subsection (3A) of the following subsection:
- “(3A) (a) Not less than three months prior to the date of expiry of the term of office of the members of the **[board]** council, the South African Medical and Dental Council referred to in subsection (1) (c) and the South African Nursing Council referred to in subsection (1) (d) **[and the Association of Technical Colleges in the Republic of South Africa referred to in subsection 1 (f)]** shall inform the registrar in writing of the names of the persons appointed by them in terms of the provisions of subsection (1).
- (b) If the said South African Medical and Dental Council or South African Nursing Council **[or Association of Technical Colleges in the Republic of South Africa]** fails to make an appointment in terms of the provisions of subsection (1), or to inform the registrar, as required in paragraph (a), of the names of the persons appointed by them, the Minister shall make the necessary appointment, and any appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).”.

Amendment of section 6 of Act 53 of 1974.

## 4. Section 6 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

- “(a) on such date prior to the election referred to in subsection (1) as he may deem expedient, request the South African Medical and Dental Council referred to in section 5 (1) (c) and the South African Nursing Council referred to in section 5 (1) (d) each to appoint a member in terms of the provisions of that section, whereupon the said **[Council]** Councils shall appoint such member and inform the registrar of the name of the member so appointed;”.

Amendment of section 7 of Act 53 of 1974.

## 5. Section 7 of the principal Act is hereby amended by the substitution for paragraph (g) of subsection (1) of the following paragraph:

- “(g) being an elected member, he tenders his resignation in writing to the registrar or if, being a member appointed by the Minister, he ceases to hold any qualification necessary for his appointment or tenders his resignation in writing to the Minister and the Minister accepts his resignation or if, being a member appointed by the

## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

South African Medical and Dental Council referred to in section 5 (1) (c) or the South African Nursing Council referred to in section 5 (1) (d), he tenders his resignation in writing to **[that]** the council in question; or”.

Amendment of section 14 of Act 53 of 1974, as amended by section 5 of Act 20 of 1979.

## 6. Section 14 of the principal Act is hereby amended— 5

(a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

“(e) a register of bodies corporate in which shall be entered the name, address, registration number and date of registration of every body corporate (other than a corporation) carrying on business as a pharmacist in terms of this Act, as well as the name of the managing director referred to in section 22 (1) (a);”;

(b) by the insertion after the said paragraph (e) of the following paragraph:

“(eA) a register of corporations in which shall be entered the name, address, registration number and date of registration of every corporation carrying on business as a pharmacist in terms of this Act, as well as the name of the manager contemplated in section 22 B (1) (a);”.

Amendment of section 21 of Act 53 of 1974, as substituted by section 8 of Act 20 of 1979 and amended by section 1 of Act 39 of 1982.

## 7. (1) Section 21 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 25

“(1) Any person who has either obtained credit for the first year of study for a degree or diploma in pharmacy at an institution approved by the **[board]** council and who is registered as a pharmacy student, or who has served as an indentured apprentice to a pharmacist within the Republic in terms of the provisions of section 27 of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), for such period as the **[board]** council may determine, or who is in possession of a qualification contemplated in subsection (3), may, on payment of the prescribed fee, be registered as a pharmacist’s assistant.”; and

(b) by the addition of the following subsection:

“(3) The council may by notice in the *Gazette* make rules regarding the recognition by the council of a qualification acquired in the Republic entitling the holder thereof to be registered as a pharmacist’s assistant, and the conditions subject to which such registration may take place.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 1984. 45

Amendment of section 22 of Act 53 of 1974, as amended by section 9 of Act 36 of 1977, section 9 of Act 20 of 1979 and section 2 of Act 39 of 1982.

## 8. Section 22 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“(1) Notwithstanding anything to the contrary contained in this Act, a body corporate (other than a corporation) may carry on business in the Republic as a pharmacist on the following conditions, but not otherwise—”.

Amendment of section 22A of Act 53 of 1974, as inserted by section 10 of Act 36 of 1977.

## 9. Section 22A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 55

“(1) **[As from the commencement of the Health Laws Amendment Act, 1977]** No body corporate, other than a body corporate which complies with the provisions of section 22 (6) or 22B (1) (f), shall open, purchase or otherwise acquire a pharmacy in which the business of a retail pharmacy is carried on, or acquire any share in such pharmacy.”.

## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

Insertion of  
section 22B in  
Act 53 of 1974.

10. The following section is hereby inserted in the principal Act after section 22A:

- “Corporation carrying on business as pharmacist. 22B. (1) Notwithstanding anything to the contrary contained in this Act, a corporation may carry on business as a pharmacist in the Republic on the following conditions: 5
- (a) (i) The corporation shall have as the manager of its business in the Republic a pharmacist who resides in the Republic and who is not engaged in a pharmacy business which does not belong to the said corporation either alone or in partnership with another person; 10
- (ii) the manager may be a director (excluding a managing director) of a body corporate referred to in section 22; 15
- (iii) the manager may with the prior written consent of the council perform an act contemplated in section 29 (2) in a pharmacy which does not belong to the corporation of which he is manager; 20
- (b) the council may cancel any registration contemplated in section 14 (1) (eA) and the certificate issued in respect thereof if— 25
- (i) the manager contemplated in paragraph (a) ceases to comply with any of the requirements set out in that paragraph, or ceases to be manager of the pharmacy business of the corporation in the Republic or to act as such; 30
- (ii) after an inquiry held under section 39, the council finds that a member of the corporation who is a pharmacist or the corporation itself has contravened any provision of this Act; 35
- (iii) the corporation disposes of the whole or any part of its interest in the retail pharmacy business in respect of which it is registered under section 14 (1) (eA) to any person other than a pharmacist, or if any person other than a pharmacist acquires any interest in the corporation carrying on business as a retail pharmacist; or 40
- (iv) the corporation, subject to the provisions of subsection (4) (c), no longer complies with the provisions of paragraph (f); 45
- (c) a corporation shall not carry on business as a pharmacist unless it and its manager are registered under section 14 (1) (eA) and unless the person who is registered as manager in fact manages the business of the corporation and complies with the requirements set out in paragraph (a) in respect of such manager: Provided that the corporation may nevertheless carry on the business of a pharmacist for a period of 30 days from the time when the said person ceases to be manager, or to act as such, or ceases in fact to manage the business of the corporation, or is for any cause unable to act as manager, or ceases to comply with the requirements set out in paragraph (a); 55
- (d) the name of a corporation carrying on business as a retail pharmacist shall, subject to the provisions of the Close Corporations Act, 1984 (Act No. 69 of 1984), consist solely of the name or names of any of the members or former members of the corporation or of a company which has been converted into such a corporation, or of persons who carried on, either for their own 60 65

## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

account or in partnership, any pharmacy business which may reasonably be regarded as the predecessor of the business of the corporation;

- (e) every pharmacy in which such a corporation carries on business shall be conducted under the continuous personal supervision of a pharmacist whose name shall be displayed conspicuously over the main entrance of that pharmacy; 5
- (f) (i) only a natural person who is a pharmacist may hold a member's interest in such a corporation: Provided that if that person dies or ceases to qualify so to hold an interest in the corporation, any member's interest held by him prior to his decease or disqualification, may continue to be held by his estate or by him, as the case may be, for a period of 12 months from his decease or disqualification or for such longer period as the council may determine; 10 15
- (ii) no voting rights, except in respect of a resolution enabling the corporation to comply with the provisions of this section or to dispose of its undertaking or assets or any part thereof, shall attach to any interest held in terms of the proviso to subparagraph (i). 20 25

(2) A corporation, other than a corporation contemplated in subsection (4), desiring to be registered as a corporation entitled to carry on business as a pharmacist in terms of this section, shall in the prescribed manner, specifying the prescribed particulars, apply to the council for registration. 30

(3) If any person who holds a member's interest in a corporation contemplated in this section, disposes of that interest or any part thereof to any person who is not a member of the corporation, or if any person who is not a member of the corporation, acquires a member's interest in the corporation, the manager of the corporation shall within 30 days after the time of that disposal or acquisition inform the registrar in writing of the name and address of each person to whom that interest has been disposed of or who has acquired that interest, as the case may be. 35 40

(4) (a) A company which at the commencement of this section carried on business as a pharmacist in terms of this Act and which after that commencement, while so carrying on business, is converted into a corporation, may, if it complies with the conditions in respect of a corporation stated in this subsection, continue to carry on business as a pharmacist. 45 50

- (b) If the manager of such a converted corporation within 60 days after that conversion submits to the registrar— 55
- (i) a copy of the founding statement of the corporation;
- (ii) a list of the names and addresses of the members of the corporation stating which of those members are pharmacists;
- (iii) the name and address of the manager of the corporation; 60
- (iv) the original registration certificate issued in terms of section 14 (1);
- (v) proof to the satisfaction of the registrar that the person or persons holding an interest in the corporation is or are the same person or 65

## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

persons who was or were a shareholder or shareholders of the body corporate so converted and the percentage interest in the corporation of each such person or each of such persons is the same as his or their percentage shareholding in the body corporate so converted,

the registrar shall register that corporation as a corporation that may carry on business as a pharmacist in the Republic.

(c) The provisions of subsection (1) (b) (iv) and (f) do not apply to a corporation which has been converted in terms of paragraph (a) and which prior to that conversion was not obliged in terms of section 22 to comply with the provisions of section 22 (6).

(5) A manager contemplated in subsection (1) (a) shall be responsible to the council for any act performed by or on behalf of the corporation in question (including any omission to perform an act required to be performed by or on behalf of the corporation in question) which may involve disciplinary action by the council in terms of Chapter V, unless he satisfies the council that the responsibility for that act rests upon a pharmacist other than himself employed by the corporation.

(6) A contravention of or failure to comply with any provision of this section, or a refusal or failure to answer any enquiry made by or on behalf of the council as to the name of the manager or any member of, or of any other person employed by, a corporation contemplated in this section, shall be an offence, and a person shall on conviction thereof be liable to a fine not exceeding R500."

Amendment of section 28 of Act 53 of 1974, as substituted by section 4 of Act 20 of 1983.

11. Section 28 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) (a) The **[Minister]** council may from time to time **[on the recommendation of the board, prescribe]** by notice in the *Gazette* make rules providing for the recognition by the council of the degrees, diplomas or certificates which may be registered as additional qualifications, **[and the specialities which may be registered as specialities]** and only qualifications **[and specialities]** so **[prescribed]** recognized shall be registrable under this section.

(b) The Minister may from time to time, on the recommendation of the council, prescribe the specialities which may be registered as specialities, and only specialities so prescribed shall be registrable under this section."

(b) by the substitution for subsection (2) of the following subsection:

"(2) Any person who desires to have a degree, diploma or certificate other than the degree, diploma or certificate by virtue of which he has in the first instance been registered, or who desires to have a prescribed speciality contemplated in subsection (1), registered, shall apply to the registrar, submitting such documentary proof that he holds the additional qualification in question as the board may require, or, in the case of an application for registration of a speciality, submitting proof that he complies with the prescribed requirements, and if the registrar is satisfied that such additional qualification is a degree, diploma or certificate



## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

**[prescribed]** recognized in terms of subsection (1), or, in respect of a speciality, that such speciality has been prescribed and that the prescribed requirements have been complied with, he shall, upon payment of the prescribed fee, cause such degree, diploma or certificate, 5 or speciality, as the case may be, to be entered in the register.”.

Amendment of section 35 of Act 53 of 1974, as amended by section 11 of Act 20 of 1979.

12. Section 35 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subject to the provisions of **[section]** sections 22 and 10 22B, any member of a partnership, society or other association of persons the members of which are not each individually registered as a pharmacist, who uses in respect of such partnership, society or association of persons any name, title, description, symbol or descriptive term referred to in 15 section 29 (1), shall be guilty of an offence and on conviction liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment: Provided that any name, title, description, symbol or descriptive term lawfully 20 used in respect of such partnership, society or association of persons immediately prior to the date of commencement of this Act may be continued to be so used for a period to be determined by the Minister after consultation with the **[board]** council, and notified in the *Gazette*.”. 25

Amendment of section 36 of Act 53 of 1974.

13. Section 36 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) the inclusion in the name, title or description of any pharmacy business of the surname of an owner thereof, 30 or, in the case of such a business wholly owned by a body corporate referred to in section 22 or 22B, of the surname of any director thereof or of a member of the corporation, as the case may be, who is a pharmacist;”.

Amendment of section 49 of Act 53 of 1974, as amended by section 11 of Act 36 of 1977, section 18 of Act 20 of 1979 and section 5 of Act 20 of 1983.

14. Section 49 of the principal Act is hereby amended— 35

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) the practice of pharmacy, the conduct of the business of a pharmacist, **[and]** the tariff of fees payable to a pharmacist in respect of professional services rendered by him and the trading activities of a pharmacist, including the goods or class of goods in which the pharmacist may not deal on the premises where the business of a pharmacist is conducted;”;

(b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) any fees payable under this Act (including annual fees in respect of any pharmacy or fees in respect of the registration of any pharmacy or of any person as a pharmacist intern, pharmacy student, pharmaceutical technician, pharmacist's assistant or pharmaceutical auxiliary personnel member or of a body corporate carrying on business as a pharmacist or of a managing director of any such body 55 corporate or of a manager of a corporation) and exemption from the payment of any such fees;” and



## Act No. 69, 1985

## PHARMACY AMENDMENT ACT, 1985

(c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

“(g) the information to be furnished to the registrar by pharmacists, including pharmacists who are owners or managers of pharmacies or directors of bodies corporate or members or managers of corporations carrying on business in the Republic as pharmacists;”.

Substitution of “board” in Act 53 of 1974.

15. (1) The principal Act is hereby amended by the substitution for the word “board” wherever it occurs, except in section 10 2, of the word “council”.

(2) The South African Pharmacy Council mentioned in section 2 (1) of the principal Act is for all purposes deemed to be and at all times to have been the South African Pharmacy Board contemplated in the said section 2 (1) before the substitution thereof by section 2 of this Act, and any reference in any law or elsewhere to the South African Pharmacy Board shall be construed accordingly.

Validation of certain regulations.

16. Any regulation purporting to have been made before the commencement of this Act under section 49 of the principal Act 20 and which could have been made under that section as amended by section 15 of this Act, is deemed to have been made at the commencement of this Act and to be in force from that date.

Short title and commencement.

17. (1) This Act is called the Pharmacy Amendment Act, 1985, and comes into operation, except in the case of section 7, 25 on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.