



Australian Capital Territory

# **Pharmacy Act 1931**

**A1931-10**

**Republication No 7**

**Effective: 9 April 2004 – 26 May 2004**

Republication date: 9 April 2004

Last amendment made by A2004-15

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Pharmacy Act 1931* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 9 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Pharmacy Act 1931

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Act	2
2 Interpretation for Act	2
2A Offences against Act—application of Criminal Code etc	4
3 Competence to practise pharmacy	4
4 Impairment	4
4A Offences against Act—application of Criminal Code etc	4
<b>Part 2 Administration</b>	
5 Pharmacy Board	5
6 Constitution of board	5
7 Inspectors	5
7A Identity cards	6
8 Powers of inspectors	6

R7  
09/04/04

Pharmacy Act 1931  
Effective: 09/04/04-26/05/04

contents 1

	Page
<b>Part 3                      Registration</b>	
<b>Division 3.1              Qualifications for registration</b>	
9              Registration for individuals based on qualifications and training	7
9A             Eligibility of companies for registration	8
10             Registration under mutual recognition principle	9
11             Registration at discretion of board	10
12             Interim registration	10
13             Conditions of registration in cases of impairment	11
14             Refusal of registration in case of conviction	12
15             Refusal of registration if applicant deregistered outside ACT	12
16             Applicants to be competent and of good character	13
17             Restriction on registration of deregistered or suspended persons	14
<b>Division 3.2              Registration procedure</b>	
18             Applications for registration	14
19             Applications to be considered and determined	14
20             Registration of applicants	15
22             Conditions of registration	15
<b>Division 3.3              Register of pharmacists</b>	
23             Register	15
24             Particulars to be entered in register	15
25             Deregistration on basis of disciplinary action under foreign law	16
26             Imposition of conditions imposed under foreign law	17
27             Cessation of registration	18
<b>Division 3.4              Annual registration fees</b>	
28             Annual registration fee	18
29             Registration to be cancelled for nonpayment	18
30             Entitlement to re-registration on payment of fees	19
<b>Division 3.4A            Special obligations of companies</b>	
30A           Failure to comply with constitution	20
30B           Alteration to constitution or name	20
30C           Companies not to practise in partnership	21
30D           Returns by companies	21

	Page
<b>Division 3.5      Miscellaneous</b>	
31      Certificate of registration	21
32      Change of address to be notified	23
33      Alteration of register	23
34      Publication of names etc of registered pharmacists	24
 <b>Part 4              Conduct of business as pharmacist</b>	
35      Cancellation or suspension of registration	25
36      Cancellation, suspension or restriction of right of practise on health grounds	26
37      Practising when registration suspended	27
38      Power of board to caution, reprimand etc	27
39      Power of board to impose fines	28
40      Application for re-registration	29
41      Inquiry by board	29
42      People other than registered pharmacists not to carry on business of pharmacist etc	29
43      Administration of estate of deceased pharmacist	30
44      Publication of notice of decision of board or administrative appeals tribunal	30
45      Name of pharmacist to be exhibited	31
46      Prescriptions to be signed	31
47      Record of prescriptions	32
48      Conduct of business by pharmacist	32
48A      Business of incorporated pharmacists	33
49      Medical practitioner etc may dispense medicines	33
50      Automatic machines for vending medicines prohibited	33
51      Restrictions on supply of certain medicines etc	34
52      Certain advertisements prohibited	35
53      Standard of drugs	36
 <b>Part 5              Miscellaneous</b>	
<b>Division 5.1      Review of decisions</b>	
54      Review of decisions	38
55      Notification of decisions	39

## Contents

---

		Page
<b>Division 5.2</b>	<b>General</b>	
56	Inspection of register	40
57	Determination of fees	41
57A	Approved forms	41
58	Refusal to permit examination of books etc	41
59	Offences by companies	41
59A	Acts and omissions of representatives	42
60	Regulation-making power	43
 <b>Endnotes</b>		
1	About the endnotes	44
2	Abbreviation key	44
3	Legislation history	44
4	Amendment history	49
5	Earlier republications	62
6	Renumbered provisions	63
7	Uncommenced amendments	66



Australian Capital Territory

## Pharmacy Act 1931

---

An Act to provide for the registration of pharmacists, to control the practice of pharmacy, and for related purposes

---

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Pharmacy Act 1931*.

### 2 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***board*** means the Pharmacy Board established under section 5.

***chairperson*** means the chairperson of the board.

***company*** means a company registered under the Corporations Act.

***dentist*** means a person registered as a dentist under the *Dentists Registration Act 1931*.

***deputy chairperson*** means the deputy chairperson of the board.

***director***—see the Corporations Act, section 9 (Dictionary).

***employee member***, of a company, means a registered pharmacist who is a member and employee of the company, but is not a director of the company.

***executive officer***, of a company, means a person, by whatever name called and whether or not the person is a director of the company, who is concerned with, or takes part in, the company's management.

***incorporated pharmacist*** means a company registered as a pharmacist under this Act.

***inspector*** means an inspector under section 7.

***medical practitioner*** means a person registered as a medical practitioner under the *Medical Practitioners Act 1930*.

**member**, of a company—see the Corporations Act, section 231 (Membership of a company).

**Mutual Recognition Act** means the *Mutual Recognition Act 1992* (Cwlth).

**qualification** includes a degree, certificate or diploma.

**register** means the register kept under section 23.

**registered pharmacist** means a person who is—

- (a) registered under this Act; or
- (b) to be deemed to be registered under this Act because of the Mutual Recognition Act, section 25.

**registration authority** means a person or body empowered by or under the law of a State, Territory or place outside Australia to register pharmacists or otherwise to authorise the practice of pharmacy.

**veterinary surgeon** means a person registered as a veterinary surgeon under the *Veterinary Surgeons Registration Act 1965*.

- (2) For this Act, an individual is taken to practise pharmacy if—
  - (a) he or she practises pharmacy personally on his or her own account or as a member of a firm; or
  - (b) in the course of a business carried on by him or her, a person or persons employed by him or her is or are engaged in the practice of pharmacy; or
  - (c) he or she is engaged in the practice of pharmacy as a person employed in a business carried on by another person (including a company) or by a firm; or
  - (d) the person practises pharmacy as a director of an incorporated pharmacist.

## **2A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

### *Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 58 (Refusal to permit examination of books etc).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

### *Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **3 Competence to practise pharmacy**

For this Act, an individual is taken to be competent to practise pharmacy only if the individual —

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

## **4 Impairment**

- (1) For this Act, an individual is taken to suffer from an impairment if the individual suffers from any physical or mental impairment, disability, condition or disorder that detrimentally affects, or is likely to detrimentally affect, the individual's physical or mental capacity to practise pharmacy.
- (2) For subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.

## **U 4A Offences against Act—application of Criminal Code etc**

## Part 2 Administration

### 5 Pharmacy Board

For this Act, there shall be a Pharmacy Board, which shall be charged with the general administration of this Act.

### 6 Constitution of board

- (1) The board shall consist of—
  - (a) a chairperson, and 3 other members, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981*; and
  - (b) 3 members elected, as occasion requires, in accordance with the *Health Professions Boards (Elections) Act 1980*.
- (2) A person is eligible for appointment as a member of the board only if the person—
  - (a) is an individual; and
  - (b) is a registered pharmacist; and
  - (c) at all times during the 3 years immediately before the appointment was entitled to practise as a pharmacist under this Act or in a State.

*Note* **State** includes the Northern Territory (see *Legislation Act 2001*, dict pt 1, def of **State**).
- (3) The chairperson shall be the executive officer of the board.

### 7 Inspectors

- (1) There may be 1 or more inspectors for this Act.
- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include exercising the functions of an inspector.

- (3) An inspector shall be any public servant for the time being exercising the duties of a public service office referred to in subsection (2).

**7A Identity cards**

- (1) The chief executive shall issue to an inspector an identity card that specifies the inspector's name and office, and on which appears a recent photograph of the inspector.
- (2) On ceasing to occupy, or to act in, the office of inspector, a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive.

Maximum penalty: 1 penalty unit.

**8 Powers of inspectors**

- (1) Subject to this Act, an inspector may, at any reasonable hour of the day or night, enter any premises where the business of a pharmacy is being carried on and inspect the premises.
- (2) An inspector who enters premises under subsection (1) is not authorised to remain on the premises if, on request by the occupier, or person in charge, of the premises, he or she does not produce his or her identity card.

## **Part 3                      Registration**

### **Division 3.1              Qualifications for registration**

#### **9                      Registration for individuals based on qualifications and training**

- (1) An individual is entitled to be registered as a pharmacist if—
  - (a) the individual is a graduate of a course of study and training in pharmacy offered by—
    - (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
  - (b) the individual—
    - (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 this paragraph; and
    - (ii) if required by the board, has undertaken training or gained experience in practising pharmacy in Australia for any period, not exceeding 12 months, that the board determines.
- (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.
- (4) A determination under subsection (1) (b) (i) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

## **9A Eligibility of companies for registration**

- (1) A company is eligible for registration as a pharmacist if—
  - (a) its name has been approved by the board; and
  - (b) it has a constitution; and
  - (c) the constitution provides that the only object of the company is to carry on the business of pharmacist and any other business commonly associated with the practice of pharmacy; and
  - (d) the constitution provides that only an individual who is a registered pharmacist may be a director; and
  - (e) the constitution provides that a director may not also be a director of another incorporated pharmacist without the consent of the board; and
  - (f) the constitution makes provision for ensuring that at all times each share in the company is beneficially owned by—
    - (i) a registered pharmacist who is a director or employee of the company; or
    - (ii) a specified relative of a person mentioned in subparagraph (i); and
  - (g) the constitution provides that all voting rights exercisable at a general meeting are exercisable only by or on behalf of registered pharmacists who are directors or employees of the company; and
  - (h) if the company intends to carry on business as a trustee—

- (i) the constitution provides that the company may be a party to a trust deed that relates to its business only if the deed provides that all beneficiaries are to be registered pharmacists who are directors or employees of the company or specified relatives of such pharmacists; and
- (ii) the proposed trust deed has been approved by the board; and
- (i) the constitution is appropriate to a company formed to carry on the business of pharmacist and any other business commonly associated with the practice of pharmacy.

- (2) In this section:

*specified relative* means a domestic partner, parent, child or grandchild.

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

## **10 Registration under mutual recognition principle**

- (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.
- (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.
- (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.

## **11 Registration at discretion of board**

- (1) The board may register an individual as a pharmacist for the purpose of enabling an unmet area of need to be met if the board is satisfied that the individual has suitable qualifications and experience to practise pharmacy in that area of need.
- (2) The board may register an individual as a pharmacist for the purpose of enabling the individual to fill a teaching or research position if—
  - (a) the individual has qualifications that the board considers appropriate for that purpose; and
  - (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 individual be engaged for that purpose.
- (3) The board may register an individual as a pharmacist on a temporary basis—
  - (a) for the purpose of enabling the individual to undertake training or to gain experience in practising pharmacy; or
  - (b) if it is satisfied that it is in the public interest to do so.
- (4) The board may impose any conditions on the registration of an individual under this section it considers appropriate.

## **12 Interim registration**

- (1) An applicant for registration may be granted interim registration if—
  - (a) the person is entitled to registration under section 9 or 9A but it is not practicable to wait until the board can consider the application; or
  - (b) the person is an individual and would be entitled to registration under section 9 except for the fact that a degree or award to

which the applicant is entitled has not yet been given or granted by the institution concerned.

- (2) A person authorised by the board for this section may grant interim registration in accordance with this section to an applicant for registration.

*Note* A fee may be determined under s 57 (Determination of fees) for this section.

- (3) Interim registration granted to a person under this section remains in force from the time it is granted until the person is given written notice that the board has—
- (a) granted the person registration; or
  - (b) refused the person's application for registration; or
  - (c) cancelled the interim registration.
- (4) The board may cancel a person's interim registration for any reason that it considers proper and shall immediately give the person written notice of the cancellation.
- (5) A person who holds interim registration is for all purposes to be taken to be a registered pharmacist.
- (6) If 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 the person was granted interim registration.
- (7) Interim registration under this section shall be taken to have been granted by the board.

## **13 Conditions of registration in cases of impairment**

- (1) The board may impose conditions on an individual's registration if the board is satisfied that the individual suffers from an impairment and the conditions are reasonably required having regard to the impairment.

- (2) If conditions have been imposed on an individual's registration under this section (including conditions imposed on a review under this section), the board may, if so requested by the individual, review the conditions and, if it is satisfied that—

- (a) the individual no longer suffers from the impairment; or
- (b) the impairment has lessened;

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

#### **14 Refusal of registration in case of conviction**

- (1) The board may refuse an application for registration if—
- (a) the applicant or, if the applicant is a company, a director or employee member of the company, has been convicted in the ACT of an offence or has been convicted outside the ACT by a court for or in respect of an act or omission that would, had it taken place in the ACT, 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.
- (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 under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

#### **15 Refusal of registration if applicant deregistered outside ACT**

- (1) The board may refuse an application for registration—
- (a) if the applicant is an individual—if the applicant's name has been removed from a foreign pharmacy register for any reason relating to—

- (i) the conduct of the applicant as a pharmacist; or
    - (ii) the physical or mental capacity of the applicant to practise pharmacy; or
  - (b) if the applicant is a company—if the name of a person who is a director or employee member of the company has been removed from a foreign pharmacy register for any reason relating to—
    - (i) the conduct of the person as a pharmacist; or
    - (ii) the physical or mental capacity of the person to practise pharmacy.
- (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.
- (3) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

## **16 Applicants to be competent and of good character**

- (1) The board must not register a person as a pharmacist unless it is satisfied that—
- (a) if the person is an individual—the person is competent to practise pharmacy and is of good character; or
  - (b) if the person is a company—each director and employee member of the company is competent to practise pharmacy and is of good character.
- (2) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

**17                      Restriction on registration of deregistered or suspended persons**

- (1) If the registration of a person under this Act has been cancelled (otherwise than under section 25 or 29 (2)) or suspended (otherwise than under section 41 (2)) the person may not apply for re-registration or termination of the suspension otherwise than under section 40.
- (2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

**Division 3.2                      Registration procedure**

**18                      Applications for registration**

- (1) This section applies to applications for registration other than applications by persons who are entitled to registration under the Mutual Recognition Act and who lodge with the board a notice under that Act, section 19.
- (2) The applicant must give the board a completed application form.

*Note 1*    A fee may be determined under s 57 (Determination of fees) for this section.

*Note 2*    If a form is approved under s 57A (Approved forms) for an application, the form must be used.

**19                      Applications to be considered and determined**

The board shall consider each application under section 18 and shall determine the application by—

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

---

**20 Registration of applicants**

- (1) The board must, subject to this Act, register an applicant who applies for registration under this Act if the applicant—
  - (a) complies with this Act; and
  - (b) complies with a request of the board to appear before the board in support of the application; and
  - (c) is entitled to be registered.
- (2) A person requested to appear before the board must appear—
  - (a) if the applicant is an individual—personally; or
  - (b) if the applicant is a company—by a director of the company.

**22 Conditions of registration**

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 3.3 Register of pharmacists**

**23 Register**

- (1) The board shall keep a register called the register of pharmacists.
- (2) The register may be kept by electronic means.

**24 Particulars to be entered in register**

A person shall be registered by entering in the register—

- (a) the name of the person; and
- (b) for an individual—the person's professional address or addresses in the ACT or, if he or she has no professional

address in the ACT, the person's place of residence, whether within or outside the ACT; and

- (c) for a company—
  - (i) if its registered office is in the ACT—the address of the registered office; or
  - (ii) if its registered office is outside the ACT—the address of its principal place of business in the ACT; and
- (d) for an individual—particulars of the qualifications entitling the person to be registered; and
- (e) the registration number allotted to the person; and
- (f) the date of registration; and
- (g) any condition to which the person's registration is subject; and
- (h) the other particulars (if any) that are prescribed.

## **25                      Deregistration on basis of disciplinary action under foreign law**

- (1) If 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) if the person is an individual—
    - (i) the conduct of the person as a pharmacist; or
    - (ii) the physical or mental capacity of the person to practise pharmacy; or
  - (b) if the person is an incorporated pharmacist—
    - (i) the conduct of a director or employee member of the company as a pharmacist; or
    - (ii) the physical or mental capacity of a director or employee member of the company to practise pharmacy;

the Board shall cancel the registration of the person.

(2) If—

- (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
- (b) the person applies to the board to be re-registered under this Act;

the board shall re-register the person.

(3) If 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) if the person is an individual—
  - (i) the conduct of the person as a pharmacist; or
  - (ii) the physical or mental capacity of the person to practise pharmacy; or
- (b) if the person is an incorporated pharmacist—
  - (i) the conduct of a director or employee member of the company as a pharmacist; or
  - (ii) the physical or mental capacity of a director or employee member of the company 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.

## **26 Imposition of conditions imposed under foreign law**

(1) If 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.

- (2) If 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.

## **27                      Cessation of registration**

A registered pharmacist ceases to be registered—

- (a) when the board gives the person notice that the person's 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 3.4                      Annual registration fees**

### **28                      Annual registration fee**

- (1) On or before 31 October in each year, a registered pharmacist must pay to the Territory the annual registration fee determined under section 57 (Determination of fees) for the year.
- (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 the pharmacist to comply with subsection (1).
- (3) The liability of a registered pharmacist for a fee payable by the pharmacist under subsection (1) is not affected by a failure of the board to comply with subsection (2).

### **29                      Registration to be cancelled for nonpayment**

- (1) If a registered pharmacist does not comply with section 28 (1), the board shall cause to be sent to the pharmacist a notice requiring the pharmacist to pay the fee due under that section by a day specified

in the notice and advising the pharmacist that if the fee is not paid on or before that day the pharmacist's registration will be cancelled.

- (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.

### **30 Entitlement to re-registration on payment of fees**

- (1) A person whose registration has been cancelled for failure to pay the annual registration fee determined under section 57 (Determination of fees) for a year is entitled to be re-registered if the person gives the board a completed application form and pays the fee.

*Note* If a form is approved under s 57A (Approved forms) for an application, the form must be used.

- (2) 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 cancellation of the registration.
- (3) The board may refuse to re-register a person under this section if it is satisfied that—
  - (a) if the person is an individual—the person is not competent to practise pharmacy or is not of good character; or
  - (b) if the person is a company—a director or employee member of the company is not competent to practise pharmacy or is not of good character.
- (4) An entitlement to re-registration under this section is subject to the provisions of this Act under which a person's name is authorised or required to be removed from the register.

## **Division 3.4A Special obligations of companies**

### **30A Failure to comply with constitution**

- (1) If an incorporated pharmacist fails to comply with a provision of its constitution that, under section 9A (1) (c) to (h), is required to be in the constitution as a condition of eligibility for registration, the pharmacist must report the failure to the board in writing within 14 days after the day that the failure happens.

Maximum penalty: 20 penalty units.

- (2) If the board receives a report under subsection (1) from an incorporated pharmacist, the board may give the pharmacist a written direction to comply with the relevant provision of its constitution within a time stated in the direction.
- (3) The direction must state that, if the provision is not complied with within the time stated, the registration of the pharmacist will be automatically suspended.
- (4) If an incorporated pharmacist does not comply with a direction under subsection (2), the pharmacist's registration is automatically suspended at the end of the time stated in the direction.
- (5) A suspension under subsection (4) remains in force until the board tells the pharmacist in writing that it is satisfied that the direction has been complied with.

### **30B Alteration to constitution or name**

- (1) An incorporated pharmacist that changes its name without the approval of the board ceases to be a registered pharmacist.
- (2) An incorporated pharmacist that changes its constitution without the approval of the board ceases to be a registered pharmacist.

**30C Companies not to practise in partnership**

An incorporated pharmacist that practices in partnership with another person without the approval of the board ceases to be a registered pharmacist.

**30D Returns by companies**

- (1) If the membership of an incorporated pharmacist or the membership of the board of directors of an incorporated pharmacist changes, the pharmacist must give written notice of the change to the board within 1 month after the day the change happens.

Maximum penalty: 20 penalty units.

*Note* If a form is approved under s 57A (Approved forms) for a notice, the form must be used.

- (2) On or before 31 July in each year, an incorporated pharmacist must give the board a written return.

Maximum penalty: 20 penalty units.

*Note* If a form is approved under s 57A (Approved forms) for a return, the form must be used.

---

**Division 3.5 Miscellaneous**

**31 Certificate of registration**

- (1) If a person is registered as a pharmacist, the board shall issue to the person a certificate of registration signed by the chairperson or deputy chairperson.
- (2) A certificate of registration shall state the provision under which the person specified in the certificate is entitled to be registered under this Act and any conditions to which the person's registration is subject.
- (3) A certificate of registration is evidence that the person specified in the certificate was registered on the date specified in the certificate.

- (4) If a certificate issued under subsection (1) to a registered pharmacist has been stolen, lost or destroyed, the board must, on application by the registered pharmacist, issue a duplicate certificate.

*Note*        A fee may be determined under s 57 (Determination of fees) for this section.

- (5) If—
- (a) the board has given a person written notice that the person's 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;

the person shall deliver the person's certificate of registration to the chairperson.

- (6) A person who, without reasonable excuse, contravenes subsection (5) commits an offence.

Maximum penalty: 5 penalty units.

- (7) If a person whose registration has been suspended delivers the person's 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 end of that period unless the person's registration has sooner been cancelled.

- (8) If, 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;

the chairperson may, by written notice given to the person, require the person to deliver the person's 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.

- (9) A person who, without reasonable excuse, contravenes a notice under subsection (8) commits an offence.

Maximum penalty: 5 penalty units.

- (10) A notice for subsection (5) (a) or (8) may be given to a person by post addressed to the person at the address of the person last known to the chairperson.
- (11) It is a defence to a prosecution for an offence against subsection (5) or (8) that—
- (a) the certificate has been destroyed; or
  - (b) after diligent search, the defendant has been unable to find the certificate.

## **32 Change of address to be notified**

If—

- (a) a change occurs in an address of a registered pharmacist entered in the register under section 24; or
- (b) a registered pharmacist who is an individual establishes a professional address, or an additional professional address, in the ACT; or
- (c) an incorporated pharmacist establishes a registered office in the ACT;

the registered pharmacist shall, within 1 month of the change or establishment notify the chairperson in writing accordingly.

Maximum penalty: 5 penalty units.

## **33 Alteration of register**

- (1) The board shall cause to be removed from the register the name of—
- (a) a registered pharmacist who has died; or

- (b) an incorporated pharmacist that has been wound up or deregistered as a company; or
  - (c) a registered pharmacist whose registration has been cancelled.
- (2) The board may, from time to time, at the request of a person or on its own initiative, make any other alterations to particulars in the register that are necessary.

*Note*        A fee may be determined under s 57 (Determination of fees) for this section.

### **34                      Publication of names etc of registered pharmacists**

- (1) As soon as practicable after 31 October in each year, the board must prepare a written notice containing the names and address (or addresses) of the pharmacists registered on that day.
- (2) The notice is a notifiable instrument.

*Note*        A notifiable instrument must be notified under the *Legislation Act 2001*.

## Part 4                      Conduct of business as pharmacist

### 35                      Cancellation or suspension of registration

The board may—

- (a) cancel the registration of a person; or
- (b) by order served on the person, suspend the registration of the person for the period the board considers appropriate;

if satisfied that—

- (c) the registration of the person was obtained by fraud or misrepresentation; or
- (d) if the person is an individual—the pharmaceutical qualification of the person has been withdrawn or cancelled by the body that granted it; or
- (e) the person has contravened a condition to which the person's registration under this Act is subject; or
- (f) the person or, if the person is a company, a director or employee member of the company, has been convicted in the ACT or elsewhere of an offence punishable by imprisonment for more than 1 year or any offence that, in the opinion of the board, renders the person unfit to practise as a pharmacist; or
- (g) if the person is an individual—the person is guilty of habitual drunkenness, or addiction to deleterious drugs, that renders him or her unfit to practise as a pharmacist; or
- (h) the person has failed to exercise adequate judgment or care in practising pharmacy; or

- (i) the person has engaged in any conduct, whether occurring in practising pharmacy or not, that adversely affects practising pharmacy by the person; or
- (j) the person has contravened this Act; or
- (k) the person has engaged in any other improper or unethical conduct relating to practising pharmacy; or
- (l) if the person is an individual—the person is not competent to practise pharmacy; or
- (m) if the person is a company—a director or employee member of the company is not competent to practise pharmacy; or
- (n) if the person is a company—the company is placed in liquidation.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

### **36 Cancellation, suspension or restriction of right of practise on health grounds**

- (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
  - (b) by order served on the person, suspend the registration of the person for the period the board considers appropriate.
- (2) The board may, instead of cancelling or suspending the registration of a person, if 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.

- (3) If 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.
- (4) A person on whom an order under subsection (1) (b) or (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.

### **37 Practising when registration suspended**

If a person whose registration as a pharmacist has been suspended is convicted of an offence against section 42, 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 the further period the board considers appropriate.

### **38 Power of board to caution, reprimand etc**

- (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) if the pharmacist is an individual—order that the pharmacist seek and undergo medical or psychiatric treatment or counselling;
  - (c) if the pharmacist is a company—order that a director or employee member of the company seek and undergo medical or psychiatric treatment or counselling;
  - (d) impose on the pharmacist's registration any conditions relating to practising pharmacy that the board considers appropriate;
  - (e) order that the pharmacist seek and follow advice, in relation to the management of the pharmacist's pharmacy practice, from persons specified by the board;

- (f) if the pharmacist is an individual—order that the pharmacist complete specified educational courses;
  - (g) if the pharmacist is a company—order that a director or employee member of the company complete specified educational courses.
- (2) Subsection (1) (f) and (g) does not apply in relation to a registered pharmacist who obtained registration under this Act under the Mutual Recognition Act.

### **39 Power of board to impose fines**

- (1) Subject to subsection (2), if the board finds that a registered pharmacist has failed to comply with an order of the board under section 38 it may, by order served on the person, impose on the person a fine not more than \$2 000.
- (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.
- (4) If 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 the period the board considers appropriate.
- (5) The payment of a fine imposed on a company is enforceable against every person who was a director when the fine was imposed.
- (6) If a fine imposed on a company is not paid in the time stated in the order by which the fine was imposed, the board may take the same action against every person who was a director when the fine was imposed as it takes against the company under subsection (4).

**40 Application for re-registration**

- (1) If the registration of a person has been cancelled, otherwise than under section 25 or 29 (2), or suspended, otherwise than under section 41, the person may apply for re-registration or termination of the suspension on the ground that, because of a specified change in the circumstances that has occurred since the date of the cancellation or suspension, it is just that the person should be re-registered or the person's suspension should be terminated.
- (2) On application under this section the board may, if satisfied that, because of the change in circumstances, the person should be re-registered or the person's suspension should be terminated, order that the person be re-registered or that the person's suspension be terminated.

**41 Inquiry by board**

- (1) The board shall hold an inquiry before—
  - (a) cancelling the registration of a person;
  - (b) suspending the registration of a person;
  - (c) making an order under section 36 (2); or
  - (d) taking action under section 38.
- (2) Pending the holding of an inquiry under subsection (1) the board may, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person.

**42 People other than registered pharmacists not to carry on business of pharmacist etc**

- (1) Any person other than a registered pharmacist who carries on or attempts to carry on in any place on any occasion the business of a pharmacist, or pretends to be a pharmacist, or assumes and uses the title of pharmaceutical chemist, pharmacist, chemist, druggist, homoeopathic chemist, dispensing chemist, dispensing druggist or other words of a similar meaning, or uses or exhibits, or

causes or permits to be used or exhibited, at any place the words ‘pharmacy’, ‘apothecary’s hall’, ‘medical drug hall’, ‘pharmaceutical institution’ or ‘drug store’ (either alone or in combination with any other words or expressions) or any other name, title, word, letters, addition or description, with the intention of implying, or inducing in others the belief, that the person is a pharmacist or (if the pharmacist is an individual) is qualified to exercise the functions of a pharmacist or that the person is carrying on business as a pharmacist, commits an offence.

Maximum penalty: 30 penalty units.

- (2) A person other than a registered pharmacist shall not provide a pharmacy service for fee or reward.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

#### **43 Administration of estate of deceased pharmacist**

On the death of a registered pharmacist who was at the time of death carrying on business as a pharmacist, an executor of the will of the deceased pharmacist, or an administrator or trustee of the estate of the deceased pharmacist, may continue the business for a period of 6 months or for any longer period that the board, on application by the executor, administrator or trustee, permits if the practice of pharmacy in the business is carried on by a registered pharmacist.

#### **44 Publication of notice of decision of board or administrative appeals tribunal**

- (1) The chairperson may prepare written notice of a decision of the board or of the administrative appeals tribunal on application for a review of a decision of the board—
- (a) cancelling the registration of a person; or
  - (b) suspending, otherwise than under section 41 (2), the registration of a person; or

- (c) imposing a condition on the registration of a person; or
- (d) making an order under section 36 (2); or
- (e) taking action under section 38; or
- (f) imposing a fine on a person under section 39;

and the reasons for the decision, including the findings on material questions of fact.

- (2) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) The notice must not be notified until—

- (a) the period within which an application may be made to the administrative appeals tribunal for a review of the decision has ended; and
- (b) if an application for review of the decision is made—the administrative appeals tribunal has given its decision on the application.

#### **45 Name of pharmacist to be exhibited**

- (1) The owner of a pharmacy business shall cause to be prominently displayed at all times at the premises where that business is carried on a notice specifying in letters not less than 5cm in height the name of the pharmacist in charge of carrying on that business at those premises followed by the words ‘Pharmacist in Charge’.
- (2) A person who contravenes subsection (1) commits an offence.

Maximum penalty: 5 penalty units.

#### **U 46 Prescriptions to be signed**

A medical practitioner shall not issue a prescription unless the prescription is signed by the practitioner with his or her usual signature or is written on paper on which is printed his or her full

surname and the initials of his or her given names, and bears the date when the prescription was issued.

**U 47 Record of prescriptions**

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

**48 Conduct of business by pharmacist**

A registered pharmacist who is an individual must not—

- (a) keep or maintain any shop for selling or supplying medicines or drugs, or for compounding or dispensing prescriptions unless the shop is, while open for business, constantly under his or her own control or that of some other registered pharmacist who is an individual, as an assistant or agent of a registered pharmacist who is an individual; or
- (b) permit any person, other than a bona fide assistant or apprentice in the course of his or her employment and under his or her actual personal supervision, or a registered pharmacist who is an individual, to sell or supply medicines or drugs or compound or dispense prescriptions; or
- (c) carry on business except under the actual personal supervision of himself or herself or some other registered pharmacist who is an individual; or
- (d) practise pharmacy except in the name under which he or she is registered as a pharmacist; or
- (e) give medical advice or aid except in his or her place of business and—
  - (i) for simple ailments of common occurrence; or
  - (ii) in the administration of antidotes in cases of acute poisoning; or

- (iii) in the application of immediate aid in cases of accident or injury; or
- (iv) in urgent or emergent cases under the direct instructions of a medical practitioner;
- (f) allow his or her name to be used in connection with the practice of pharmacy at any premises where there is not a registered pharmacist who is an individual in daily attendance; or
- (g) aid or assist any person other than a registered pharmacist who is an individual to practise pharmacy except in accordance with the provisions of this Act.

#### **48A Business of incorporated pharmacists**

The business of an incorporated pharmacist must be carried on under the actual personal supervision of—

- (a) a director of the incorporated pharmacist; or
- (b) an employee member of the incorporated pharmacist; or
- (c) another registered pharmacist who is an individual and is employed or engaged by the incorporated pharmacist.

#### **49 Medical practitioner etc may dispense medicines**

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

#### **50 Automatic machines for vending medicines prohibited**

- (1) Any person who—
  - (a) installs any automatic machine for the sale or supply of any drug or medicine or allows, permits or suffers any such automatic machine to be so installed; or

(b) sells or supplies any drug or medicine by means of any automatic machine; or

(c) allows, permits or suffers any person to purchase or be supplied with or otherwise obtain any drug or medicine by means of any automatic machine,

commits an offence.

Maximum penalty: 5 penalty units.

(2) In subsection (1):

***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 or her employee, or other agent at the time of the sale or supply.

## **U 51 Restrictions on supply of certain medicines etc**

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

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) Nothing in this section shall apply to—

(a) a registered pharmacist who dispenses to the patient of a medical practitioner registered in any State or Territory the

prescription of such practitioner if the prescription is dated and bears the address and usual signature (including the surname) of the practitioner; or

- (b) a registered pharmacist who in the ordinary course of his or her business sells or supplies any article as a drug, medicine, instrument or appliance (except any drugs, medicines, instruments or appliances that are prescribed), if the drug, medicine, instrument or appliance is sold or supplied by the pharmacist for purposes other than those prescribed by this section.

## **52        Certain advertisements prohibited**

- (1) A person shall not publish any statement, whether by way of advertisement or otherwise, to promote the sale of any article as a medicine, instrument or appliance for the alleviation or cure of any sexually transmitted disease, or disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for terminating pregnancy or influencing the course of pregnancy.
- (2) Any person who—
  - (a) affixes or inscribes any statement on any thing whatsoever so as to be visible to persons being in or passing along any street, road, highway, pathway, public place, or public conveyance; or
  - (b) delivers or offers, or exhibits any statement to any person being in or passing along any street, road, highway, pathway, public place, or public conveyance; or
  - (c) throws any statement into or on any street, road, highway, pathway, public place or public conveyance, or into the area, yard, garden, or enclosure of any house; or
  - (d) exhibits any statement to public view in any house, shop or place; or

- (e) prints or publishes any statement in any newspaper; or
- (f) sells, offers, or shows or sends by post any statement to any person;

shall be deemed to have published that statement.

- (3) In this section:

**statement** includes any document, book, or paper containing any statement.

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

Maximum penalty: 30 penalty units.

- (5) Nothing in this section shall apply to any books, documents, or papers, published in good faith for the advancement of medical or surgical science, or to any advertisement, notice or recommendation published by the authority of the Secretary of the Department of Community Services and Health of the Commonwealth, or to any publication sent only to medical practitioners or to registered pharmacists for the purposes of their business.

## 53 Standard of drugs

- (1) In this section:

**controlled therapeutic substance**—see the *Therapeutic Substances Act 1953* (Cwlth).

**the Australian pharmaceutical formulary** means—

- (a) the latest edition for the time being of the book called the Australian Pharmaceutical Formulary, published by the Pharmaceutical Association of Australia; or
- (b) if that edition has been added to or amended—that edition as affected by those additions or amendments.

- (2) A registered pharmacist shall not use or supply, or permit the use or supply of a drug or medicinal preparation that is not—
- (a) for a drug or medicinal preparation that is a controlled therapeutic substance—of the standard applicable to that controlled therapeutic substance under the *Therapeutic Substances Act 1953* (Cwlth); or
  - (b) for a drug or medicinal preparation (other than a controlled therapeutic substance) for which a standard is specified in the Australian pharmaceutical formulary—of the standard specified for that drug or medicinal preparation in the Australian pharmaceutical formulary.

Maximum penalty: 50 penalty units.

## **Part 5**                      **Miscellaneous**

### **Division 5.1**            **Review of decisions**

#### **54**                      **Review of decisions**

Application may be made to the administrative appeals tribunal for review of a decision of the board—

- (a) under section 11 (4), 13 (1) or 26 (2) to impose conditions on the registration of a person; or
- (b) under section 12 (4) to cancel the interim registration of a person; or
- (c) under section 13 (2) to refuse to review, or to alter or remove conditions imposed on the registration of a person; or
- (d) under section 13 (2) to impose new conditions on the registration of a person; or
- (e) under section 19 to refuse to register a person; or
- (f) under section 25 (4), 30 (3) or 40 to refuse to re-register a person; or
- (g) under section 25 (3), 35 (a), 36 (1) (a), 37 (a) or 39 (4) (a) to cancel the registration of a person; or
- (h) under section 35 (b), 36 (1) (b), 37 (b), 39 (4) (b) or 41 (2) to suspend the registration of a person; or
- (i) under section 36 (2) to direct a person not to provide a pharmaceutical service; or
- (j) under section 36 (3) to refuse to review an order, or amend or remove an order, directing a person not to provide a pharmaceutical service; or

- (k) under section 38 to take any action of the kind referred to in that section in relation to a registered pharmacist; or
- (l) under section 39 (1) to impose a fine on a registered pharmacist; or
- (m) under section 40 (2) to refuse to terminate the suspension of registration of a pharmacist; or
- (n) under section 43 to refuse to extend beyond 6 months the period during which the executor of the will of a deceased pharmacist, or the administrator or trustee of the estate of a deceased pharmacist, may continue the business of the pharmacist; or
- (o) under section 43 to fix a period longer than 6 months during which the executor of the will of a deceased pharmacist, or the administrator or trustee of the estate of a deceased pharmacist may continue the business of the pharmacist.

## **55 Notification of decisions**

- (1) If a decision of the kind referred to in section 54 (other than paragraph (b), (h), (i) or (l)) is made, the board shall give written notice of the decision—
  - (a) for a decision referred to in section 54 (a)—to the person on whose registration conditions have been imposed; or
  - (b) for a decision referred to in section 54 (c)—to the person whose registration is subject to the condition; or
  - (c) for a decision referred to in section 54 (d)—to the person on whose registration the new conditions are imposed; or
  - (d) for a decision referred to in section 54 (e)—to the person whose application for registration has been refused; or
  - (e) for a decision referred to in section 54 (f)—to the person whose application for re-registration has been refused; or

- (f) for a decision referred to in section 54 (g)—to the person whose registration has been cancelled; or
  - (g) for a decision referred to in section 54 (j)—to the person in relation to whom the order was made; or
  - (h) for a decision referred to in section 54 (k)—to the registered pharmacist in relation to whom the action has been taken; or
  - (i) for a decision referred to in section 54 (m)—to the person whose registration has been suspended; or
  - (j) for a decision referred to in section 54 (n) or (o)—to the executor of the will of the deceased pharmacist or the administrator or trustee of the estate of the deceased pharmacist.
- (2) A notice under section 12 (4) or under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) An order under section 35 (b), 36 (1) (b), 36 (2), 37 (b), 39 (1), 39 (4) (b) or 41 (2) shall have endorsed on it or attached to it a notice in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## **Division 5.2                      General**

### **56                      Inspection of register**

- (1) A person may inspect, or obtain a certified copy of, an entry in the register.
- Note*            A fee may be determined under s 57 (Determination of fees) for this section.
- (2) The board may, on request by the registration authority of a State, Territory or place outside Australia and without payment by the

registration authority of a fee, forward a certified copy of the register to that registration authority.

**57 Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**57A Approved forms**

- (1) The board may, in writing, approve forms for this Act.
- (2) If the board approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

**58 Refusal to permit examination of books etc**

- (1) A person commits an offence if the person—
- (a) fails to allow an authorised person to examine books, papers, records, apparatus or articles; or
- (b) fails to produce them for examination.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.

**59 Offences by companies**

- (1) If a company contravenes, whether by an act or omission, a provision of this Act, each person who is an executive officer of the

company is taken to have contravened the provision if the person knowingly authorised or allowed the contravention.

- (2) For subsection (1), an executive officer of the company may be prosecuted for, and convicted of, the offence whether or not the company has been prosecuted for, or convicted of, the offence.
- (3) This section does not affect any liability imposed on a company for an offence committed by the company against this Act.

#### **59A        Acts and omissions of representatives**

- (1) In this section:

*person* means an individual.

*Note*        See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
  - (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
    - (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
    - (b) the representative had the state of mind.

- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## **60 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to the construction, conduct and equipment of premises where the business of a pharmacy is carried on.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Endnotes

1 About the endnotes

---

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Pharmacy Ordinance 1931* No 10 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

## Legislation before becoming Territory enactment

### Pharmacy Act 1931 No 10

notified 4 June 1931

commenced 15 July 1931

as amended by

### Pharmacy Ordinance 1933 No 21

notified 28 September 1933

commenced 28 September 1933

### Ordinances Revision Ordinance 1937 No 27 sch 2

notified 23 December 1937

commenced 23 December 1937

### Ordinances Revision Ordinance 1959 No 21 sch 1

notified 23 December 1959

sch 1 commenced 31 December 1959

### Pharmacy Ordinance 1964 No 22

notified 14 January 1965

commenced 14 January 1965

### Ordinances Revision (Decimal Currency) Ordinance 1966 No 19 sch 1

notified 23 December 1966

commenced 23 December 1966

## Endnotes

3 Legislation history

---

**Pharmacy Ordinance 1967 No 18**

notified 8 June 1967  
commenced 8 June 1967

**Pharmacy Ordinance 1970 No 37**

notified 22 October 1970  
commenced 22 October 1970

**Pharmacy Ordinance 1971 No 18**

notified 23 September 1971  
commenced 23 September 1971

**Pharmacy Ordinance 1972 No 44**

notified 21 December 1972  
commenced 21 December 1972

**Pharmacy Ordinance 1973 No 31**

notified 2 August 1973  
commenced 2 August 1973

**Ordinances Revision (Age of Majority) Ordinance 1974 No 47 sch 1**

notified 24 October 1974  
commenced 1 November 1974

**Ordinances Revision (Health Commission) Ordinance 1975 No 17  
s 14**

notified 1 July 1975  
commenced 1 July 1975

**Pharmacy Ordinance 1975 No 43**

notified 10 November 1975  
commenced 10 November 1975

**Ordinances Revision Ordinance 1977 No 65 sch 2**

notified 22 December 1977  
commenced 22 December 1977

**Ordinances Revision Ordinance 1978 No 46 sch 2**

notified 28 December 1978  
commenced 28 December 1978

**Ordinances Revision (Penalties) Ordinance 1979 No 26**

notified 31 August 1979  
commenced 31 August 1979

**Pharmacy (Amendment) Ordinance 1980 No 50**

notified 23 December 1980  
commenced 17 February 1981 (Cwlth Gaz 1981 No S27)

**Pharmacy (Amendment) Ordinance 1981 No 51**

notified 9 December 1981  
commenced 31 December 1981 (Cwlth Gaz 1981 No S273)

**Pharmacy (Amendment) Ordinance 1982 No 32**

notified 28 June 1982  
commenced 30 June 1982 (Cwlth Gaz 1982 No S139)

**Pharmacy (Amendment) Ordinance (No 2) 1982 No 44**

notified 30 June 1982  
commenced 30 June 1982

**Pharmacy (Amendment) Ordinance 1984 No 64**

notified 2 November 1984  
commenced 22 February 1985 (Cwlth Gaz 1985 No G7)

**Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S164)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

**Legislation after becoming Territory enactment****Sexually Transmitted Diseases (Amendment) Act 1990 No 61 s 7**

notified 21 December 1990 (Gaz 1990 No S92)  
commenced 21 December 1990

**Health Services (Consequential Provisions) Act 1990 No 63 sch 1**

notified 28 December 1990 (Gaz 1990 No S102)  
s 1, s 2 commenced 28 December 1990 (s 2 (1))  
sch 1 commenced 1 January 1991 (s 2 (2) and see Gaz 1991 No S4)

## Endnotes

3 Legislation history

---

**Health (Consequential Provisions) Act 1993 No 14 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993 (s 2)

**Pharmacy (Amendment) Act 1993 No 88**

notified 17 December 1993 (Gaz 1993 No S258)  
ss 1-3 commenced 17 December 1993 (s 2 (1))  
remainder commenced 1 January 1994 (s 2 (2) and Gaz 1993 No S279)

**Statute Law Revision Act 1994 No 26 sch**

notified 31 May 1994 (Gaz 1994 No S93)  
sch commenced 31 May 1994 (s 2)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

**Statute Law Revision (Penalties) Act 1994 No 81 sch**

notified 29 November 1994 (Gaz 1994 No S253)  
s 1, s 2 commenced 29 November 1994 (s 2 (1))  
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

**Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1**

notified 15 December 1994 (Gaz 1994 No S280)  
s 1, s 2 commenced 15 December 1994 (s 2 (1))  
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 281**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 281 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

**Pharmacy Amendment Act 2001 No 84 (as am by Pharmacy Amendment Act 2002 No 4)**

notified LR 24 September 2001

s 1, s 2 commenced 24 September 2001 (LA s 75)

remainder commences 1 June 2002 (s 2 and see Pharmacy Amendment Act 2002 No 4, s 4)

**Pharmacy Amendment Act 2002 No 4**

notified LR 14 March 2002

commenced 15 March 2002 (s 2)

*Note* This Act only amends the Pharmacy Amendment Act 2001 No 84.

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.28**

notified LR 27 March 2003

s 1, s 2 commenced 27 March 2003 (LA s 75 (1))

sch 1 pt 1.28 commenced 28 March 2003 (s 2)

**Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 5**

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

pt 5 awaiting commencement (s 2)

*Note* default commencement under LA s 79: 19 September 2004

**Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.33, sch 2 pt 2.65**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 1 pt 1.33, sch 2 pt 2.65 commenced 9 April 2004 (s 2 (1))

**4 Amendment history****Long title**

Long title am 1993 No 88 s 4

## Endnotes

4 Amendment history

---

### Interpretation for Act

s 2 orig s 2 om 1984 No 64 s 4  
(prev s 5) sub 1967 No 18 s 2  
am 1982 No 32 s 4; 1984 No 64 s 5; 1989 No 38 sch 1; 1993  
No 88 s 5 and sch  
renum 1993 No 88 s 29  
ss renum R4 LA  
am 2001 No 84 ss 6-8  
def **board** ins 1993 No 88 s 5  
def **chairperson** ins 1993 No 88 s 5  
def **company** ins 2001 No 84 s 4  
def **dentist** ins 1984 No 64 s 5  
def **deputy chairperson** ins 1993 No 88 s 5  
def **determined fee** ins 1993 No 88 s 5  
om 2001 No 44 amdt 1.3120  
def **director** ins 2001 No 84 s 4  
def **employee member** ins 2001 No 84 s 4  
def **executive officer** ins 2001 No 84 s 4  
def **incorporated pharmacist** ins 2001 No 84 s 4  
def **inspector** ins 1984 No 64 s 5  
sub 1994 No 97 sch  
def **medical practitioner** ins 1984 No 64 s 5  
am 1994 No 26 sch  
def **medicated wine** sub 1967 No 18 s 2  
om 1984 No 64 s 5  
def **member** sub 1967 No 18 s 2; 2001 No 84 s 4  
def **Mutual Recognition Act** ins 1993 No 88 s 5  
def **qualification** ins 1993 No 88 s 5  
def **register** om 1967 No 18 s 2  
ins 1993 No 88 s 5  
def **registered medical practitioner** sub 1967 No 18 s 2  
om 1984 No 64 s 5  
def **registered pharmacist** sub 1967 No 18 s 2  
sub 1993 No 88 s 5  
def **registered veterinary surgeon** ins 1967 No 18 s 2  
om 1984 No 64 s 5  
def **registration authority** ins 1982 No 32 s 4  
am 1984 No 64 s 5  
def **the Assistant Director** ins 1971 No 18 s 2  
om 1975 No 17 s 14  
def **the Board** sub 1967 No 18 s 2  
om 1993 No 88 s 5  
def **the Chairman** sub 1967 No 18 s 2  
om 1993 No 88 s 5  
def **the Court of Petty Sessions** ins 1967 No 18 s 2  
om 1981 No 51 s 4  
def **the Deputy Chairman** ins 1967 No 18 s 2  
om 1993 No 88 s 5

def **the Director** ins 1967 No 18 s 2  
 om 1975 No 17 s 14  
 def **the Director-General of Health** am 1959 No 21 sch 1  
 om 1967 No 18 s 2  
 def **the Election Ordinance** ins 1980 No 50 s 4  
 om 1981 No 51 s 4  
 def **the Minister** sub 1967 No 18 s 2  
 om 1978 No 46 sch 2  
 def **the Register** ins 1967 No 18 s 2  
 am 1984 No 64 s 5  
 om 1993 No 88 s 5  
 def **tribunal** ins 1984 No 64 s 5  
 sub 1989 No 38 sch 1  
 om 1994 No 60 sch 1  
 def **veterinary surgeon** ins 1984 No 64 s 5

**Offences against Act—application of Criminal Code etc**  
 s 2A ins A2004-15 amdt 2.141

**Competence to practise pharmacy**  
 s 3 orig s 3 om 1984 No 64 s 4  
 (prev s 5A) ins 1993 No 88 s 6  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 9, s 10

**Impairment**  
 s 4 orig s 4 om 1977 No 65 sch 2  
 (prev s 5B) ins 1993 No 88 s 6  
 renum 1993 No 88 s 29  
 am 2001 No 84 ss 11-13

**Offences against Act—application of Criminal Code etc**  
s 4A ins A2004-10 s 11

**Pharmacy Board**  
 s 5 orig s 5 renum as s 2  
 (prev s 6) am 1981 No 51 s 5  
 renum 1993 No 88 s 29

**Constitution of board**  
 s 6 orig s 6 renum as s 5  
 (prev s 7) am 1959 No 21 sch 1; 1967 No 18 s 3; 1971 No 18  
 s 3; 1975 No 17 s 14; 1980 No 50 s 5; 1981 No 51 s 6; 1993  
 No 88 sch  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 14

## Endnotes

4 Amendment history

---

### **Inspectors**

s 7 orig s 7 renum as s 6  
(prev s 8) om 1981 No 51 s 7  
ins 1984 No 64 s 6  
am 1993 No 88 sch  
renum 1993 No 88 s 29  
sub 1994 No 97 sch

### **Identity cards**

s 7A ins 1994 No 97 sch  
am 1998 No 54 sch

### **Powers of inspectors**

s 8 orig s 8 renum as s 7  
(prev s 9) sub 1980 No 50 s 6  
om 1981 No 51 s 7  
ins 1984 No 64 s 6  
am 1993 No 88 sch  
renum 1993 No 88 s 29  
am 1994 No 97 sch

### **Registration**

pt 3 hdg am 1993 No 88 s 7

### **Qualifications for registration**

div 3.1 hdg (prev pt 3 div 1 hdg) ins 1993 No 88 s 8  
renum R4 LA

### **Registration for individuals based on qualifications and training**

s 9 hdg sub 2001 No 84 s 15  
s 9 orig s 9 renum as s 8  
(prev s 10) sub 1933 No 21 s 2  
am 1959 No 21 sch 1  
om 1981 No 51 s 7  
ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3121, amdt 1.3122; 2001 No 84 s 16,  
s 17

### **Eligibility of companies for registration**

s 9A ins 1980 No 50 s 6  
om 1981 No 51 s 7  
ins 2001 No 84 s 18  
am A2003-14 amdt 1.88

### **Registration under mutual recognition principle**

s 10 orig s 10 renum as s 9  
(prev s 11) am 1980 No 50 s 7  
om 1981 No 51 s 7  
ins 1993 No 88 s 8  
renum 1993 No 88 s 29

**Registration at discretion of board**

s 11 orig s 11 renum as s 11  
 (prev s 12) am 1967 No 18 s 4; 1970 No 37 s 2  
 om 1981 No 51 s 7  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 ss 19-21

**Interim registration**

s 12 orig s 12 renum as s 11  
 (prev s 13) om 1981 No 51 s 7  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 44 amdt 1.3123; 2001 No 84 ss 22-26

**Conditions of registration in cases of impairment**

s 13 orig s 13 renum as s 12  
 (prev s 14) om 1981 No 51 s 7  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 27, s 28

**Refusal of registration in case of conviction**

s 14 hdg sub 2001 No 84 s 29  
 s 14 orig s 14 renum as s 13  
 (prev s 15) am 1966 No 19 sch 1; 1979 No 26 sch  
 om 1981 No 51 s 7  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 30

**Refusal of registration if applicant deregistered outside ACT**

s 15 hdg sub 2001 No 84 s 31  
 s 15 orig s 15 renum as s 14  
 (prev s 16) am 1966 No 19 sch 1; 1979 No 26 sch  
 om 1981 No 51 s 7  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 32

**Applicants to be competent and of good character**

s 16 orig s 16 renum as s 15  
 (prev s 17) om 1979 No 26 s 11  
 ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 33

## Endnotes

### 4 Amendment history

---

#### **Restriction on registration of deregistered or suspended persons**

s 17 orig s 17 renum as s 16  
(prev s 18) om 1981 No 51 s 7  
ins 1993 No 88 s 8  
renum 1993 No 88 s 29

#### **Registration procedure**

div 3.2 hdg (prev pt 3 div 2 hdg) ins 1993 No 88 s 8  
renum R4 LA

#### **Applications for registration**

s 18 orig s 18 renum as s 17  
(prev s 19) om 1982 No 44 s 3  
ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3124

#### **Applications to be considered and determined**

s 19 orig s 19 renum as s 18  
(prev s 20) om 1984 No 64 s 7  
ins 1993 No 88 s 8  
renum 1993 No 88 s 29

#### **Registration of applicants**

s 20 orig s 20 renum as s 19  
(prev s 21) sub 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3125  
sub 2001 No 84 s 34

#### **Fee for registration pursuant to Mutual Recognition Act**

s 21 orig s 21 renum as s 20  
(prev s 22) am 1980 No 50 s 8; 1982 No 32 s 5  
sub 1993 No 88 s 8  
renum 1993 No 88 s 29  
om 2001 No 44 amdt 1.3126

#### **Conditions of registration**

s 22 orig s 22 renum as s 21  
(prev s 23) om 1959 No 21 sch 1  
ins 1982 No 32 s 6  
sub 1993 No 88 s 8  
renum 1993 No 88 s 29

#### **Register of pharmacists**

div 3.3 hdg (prev pt 3 div 3 hdg) ins 1993 No 88 s 8  
renum R4 LA

**Register**

s 23 orig s 23 renum as s 22  
 (prev s 24) am 1933 No 21 s 3; 1937 No 27 sch 2; 1959 No 21  
 sch 1  
 sub 1982 No 32 s 6; 1993 No 88 s 8  
 renum 1993 No 88 s 29

**Particulars to be entered in register**

s 24 orig s 24 renum as s 23  
 (prev s 24A) ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 ss 35-37; pars renum R5 LA (see 2001 No 84  
 s 38)

**Particulars to be entered in register**

s 24A renum as s 24

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

s 24B renum as s 25

**Imposition of conditions imposed under foreign law**

s 24C renum as s 26

**Cessation of registration**

s 24D renum as s 27

**Annual fee payable**

s 24E renum as s 28

**Registration to be cancelled for nonpayment**

s 24F renum as s 29

**Entitlement to re-registration on payment of fees**

s 24G renum as s 30

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

s 25 orig s 25 renum as s 31  
 (prev s 24B) ins 1993 No 88 s 8  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 39

**Imposition of conditions imposed under foreign law**

s 26 orig s 26 am 1937 No 27 sch 2  
 om 1981 No 51 s 8  
 ins 1982 No 32 s 6  
 om 1993 No 88 s 10  
 (prev s 24C) ins 1993 No 88 s 8  
 renum 1993 No 88 s 29

## Endnotes

### 4 Amendment history

---

#### **Cessation of registration**

s 27 orig s 27 renum as s 32  
(prev s 24D) ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 84 s 40

#### **Annual registration fees**

div 3.4 hdg (prev pt 3 div 4 hdg) ins 1993 No 88 s 8  
sub 2001 No 44 amdt 1.3127  
renum R4 LA

#### **Annual registration fee**

s 28 hdg sub 2001 No 44 amdt 1.3128  
s 28 orig s 28 renum as s 33  
(prev s 24E) ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3129; 2001 No 84 s 41

#### **Registration to be cancelled for nonpayment**

s 29 orig s 29 sub 1982 No 32 s 6  
om 1993 No 88 s 13  
(prev s 24F) ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 84 s 42, s 43

#### **Entitlement to re-registration on payment of fees**

s 30 orig s 30 sub 1967 No 18 s 5; 1982 No 32 s 6  
om 1993 No 88 s 13  
(prev s 24G) ins 1993 No 88 s 8  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3130; ss renum 2001 No 44  
amdt 1.3131; 2001 No 84 s 44, s 45

#### **Special obligations of companies**

div 3.4A ins 2001 No 84 s 46

#### **Failure to comply with constitution**

s 30A ins 2001 No 84 s 46

#### **Alteration to constitution or name**

s 30B ins 2001 No 84 s 46

#### **Companies not to practise in partnership**

s 30C ins 2001 No 84 s 46

#### **Returns by companies**

s 30D ins 2001 No 84 s 46

#### **Miscellaneous**

div 3.5 hdg (prev pt 3 div 5 hdg) ins 1993 No 88 s 8  
renum R4 LA

**Certificate of registration**

s 31 orig s 31 am 1933 No 21 s 4  
sub 1982 No 32 s 6  
om 1993 No 88 s 13  
(prev s 25) am 1974 No 47 sch 1  
sub 1975 No 43 s 2; 1982 No 32 s 6  
am 1993 No 88 s 9 and sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch; 2001 No 44 amdt 1.3132  
ss renum R4 LA (see 2001 No 44 amdt 1.3133)  
am 2001 No 84 ss 47-49

**Effect of provisional etc registration**

s 31A ins 1982 No 32 s 6  
om 1993 No 88 s 13

**Change of address to be notified**

s 32 orig s 32 renum as s 35  
(prev s 27) sub 1982 No 32 s 6  
am 1993 No 88 s 11 and sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch; 2001 No 84 s 50

**Practising when registration suspended**

s 32B renum as s 37

**Power of board to caution, reprimand etc**

s 32C renum as s 38

**Power of board to impose fines**

s 32D renum as s 39

**Alteration of register**

s 33 orig s 33 renum as s 41  
(prev s 28) am 1966 No 19 sch 1; 1979 No 26 sch  
sub 1982 No 32 s 6  
am 1993 No 88 s 12 and sch  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3134-1.3136; 2001 No 84 s 51

**Appeal**

s 33A ins 1981 No 51 s 11  
am 1982 No 32 s 9; 1984 No 64 s 10  
om 1993 No 88 s 16

## Endnotes

### 4 Amendment history

---

#### **Publication of names etc of registered pharmacists**

s 34 orig s 34 am 1966 No 19 sch 1  
sub 1979 No 26 s 7  
om 1982 No 32 s 10  
ins 1984 No 64 s 11  
om 1993 No 88 s 16  
(prev s 31B) ins 1982 No 32 s 6  
renum 1993 No 88 s 29  
sub 2001 No 44 amdt 1.3137  
am 2001 No 84 s 52

#### **Cancellation or suspension of registration**

s 35 orig s 35 renum as s 42  
(prev s 32) am 1933 No 21 s 5; 1937 No 27 sch 2; 1981 No 51  
s 9; 1982 No 32 s 7  
sub 1984 No 64 s 8; 1993 No 88 s 14  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3138, amdt 1.3139; pars renum R4 LA;  
2001 No 84 ss 53-58

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

s 36 orig s 36 renum as s 44  
(prev s 32A) ins 1984 No 64 s 8  
sub 1993 No 88 s 14  
renum 1993 No 88 s 29

#### **Practising when registration suspended**

s 37 orig s 37 renum as s 45  
(prev s 32B) ins 1993 No 88 s 14  
renum 1993 No 88 s 29

#### **Power of board to caution, reprimand etc**

s 38 orig s 38 am 1973 No 31 s 2  
om 1984 No 64 s 16  
(prev s 32C) ins 1993 No 88 s 14  
renum 1993 No 88 s 29  
pars renum R4 LA  
am 2001 No 84 ss 59-65

#### **Power of board to impose fines**

s 39 orig s 39 om 1982 No 32 s 10  
(prev s 32D) ins 1993 No 88 s 14  
renum 1993 No 88 s 29  
am 2001 No 84 s 66, s 67

#### **Application for re-registration**

s 40 orig s 40 renum as s 46  
(prev s 32E) ins 1993 No 88 s 14  
renum 1993 No 88 s 29  
am 2001 No 84 s 68, s 69

**Inquiry by board**

s 41 orig s 41 renum as s 47  
 (prev s 33) am 1981 No 51 s 10; 1982 No 32 s 8  
 sub 1984 No 64 s 9  
 am 1993 No 88 s 15  
 renum 1993 No 88 s 29  
 am 1994 No 26 sch; pars renum R4 LA

**People other than registered pharmacists not to carry on business of pharmacist etc**

s 42 hdg sub 2001 No 84 s 70  
 s 42 orig s 42 renum as s 48  
 (prev s 35) am 1966 No 19 sch 1; 1979 No 26 sch; 1984 No 64  
 s 12; 1993 No 88 sch  
 renum 1993 No 88 s 29  
 am 1994 No 81 sch; 2001 No 84 s 71, s 72

**Administration of estate of deceased pharmacist**

s 43 orig s 43 renum as s 49  
 (prev s 35A) ins 1984 No 64 s 13  
 am 1993 No 88 sch  
 renum 1993 No 88 s 29

**Publication of notice of decision of board or administrative appeals tribunal**

s 44 orig s 44 renum as s 50  
 (prev s 36) sub 1984 No 64 s 14  
 am 1993 No 88 s 17 and sch  
 renum 1993 No 88 s 29  
 am 1994 No 60 sch 1; 2001 No 44 amdts 1.3140-1.3143

**Name of pharmacist to be exhibited**

s 45 orig s 45 renum as s 51  
 (prev s 37) sub 1984 No 64 s 15  
 renum 1993 No 88 s 29  
 am 1994 No 81 sch

**Prescriptions to be signed and dated etc**

s 46 orig s 46 renum as s 52  
 (prev s 40) am 1993 No 88 sch  
 renum 1993 No 88 s 29  
sub A2004-10 s 12

**Record of prescriptions**

s 47 orig s 47 renum as s 53  
 (prev s 41) am 1993 No 88 sch  
 renum 1993 No 88 s 29  
 am 2001 No 84 s 73  
sub A2004-10 s 12

## Endnotes

4 Amendment history

---

### **Conduct of business by pharmacist**

s 48 orig s 48 renum as s 56  
(prev s 42) am 1933 No 21 s 6; 1984 No 64 s 17; 1993 No 88  
sch  
renum 1993 No 88 s 29  
pars renum R4 LA  
am 2001 No 84 s 74, s 75

### **Business of incorporated pharmacists**

s 48A ins 2001 No 84 s 76

### **Medical practitioner etc may dispense medicines**

s 49 orig s 49 am 1933 No 21 s 7; 1967 No 18 s 6; 1970 No 37 s 3;  
1975 No 17 s 14  
om 1981 No 51 s 12  
ins 1982 No 44 s 4  
am 1990 No 63 sch 1  
om 1993 No 14 sch 1  
(prev s 43) am 1984 No 64 s 18; 1993 No 88 sch  
renum 1993 No 88 s 29

### **Automatic machines for vending medicines prohibited**

s 50 orig s 50 renum as s 57  
(prev s 44) am 1966 No 19 sch 1; 1979 No 26 sch; 1993 No 88  
sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch

### **Restrictions on supply of certain medicines etc**

s 51 orig s 51 renum as s 58  
(prev s 45) am 1966 No 19 sch 1; 1979 No 26 sch; 1990 No 61  
s 7; 1993 No 88 sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch  
sub A2004-10 s 13

### **Certain advertisements prohibited**

s 52 orig s 52 renum as s 59  
(prev s 46) am 1966 No 19 sch 1; 1972 No 44 s 2; 1979 No 26  
sch; 1989 No 38 sch 1; 1990 No 61 s 7; 1993 No 88 sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch

**Standard of drugs**

s 53 orig s 53 om 1981 No 51 s 12  
ins 1984 No 64 s 21  
am 1989 No 38 sch 1  
om 1993 No 88 s 19  
(prev s 47) sub 1964 No 22 s 2  
am 1966 No 19 sch 1; 1979 No 26 sch; 1993 No 88 sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch

**Miscellaneous**

pt 5 hdg am 1982 No 32 s 11

**Review of decisions**

div 5.1 hdg (prev pt 5 div 1 hdg) ins 1993 No 88 s 18  
renum R4 LA

**Review of decisions**

s 54 orig s 54 renum as s 60  
(prev s 47A) ins 1993 No 88 s 18  
renum 1993 No 88 s 29  
am 1994 No 60 sch 1; pars renum R4 LA; 2001 No 84 s 77

**Notification of decisions**

s 55 (prev s 47B) ins 1993 No 88 s 18  
renum 1993 No 88 s 29  
am 1994 No 60 sch 1; pars renum R4 LA

**General**

div 5.2 hdg (prev pt 5 div 2 hdg) ins 1993 No 88 s 18  
renum R4 LA

**Inspection of register**

s 56 (prev s 48) om 1981 No 51 s 12  
ins 1982 No 32 s 12  
am 1993 No 88 sch  
renum 1993 No 88 s 29  
am 2001 No 44 amdt 1.3144

**Power of Minister to determine fees**

s 57 (prev s 50) am 1966 No 19 sch 1; 1979 No 26 sch  
sub 1979 No 26 s 7  
om 1981 No 51 s 12  
ins 1984 No 64 s 19  
renum 1993 No 88 s 29  
sub 2001 No 44 amdt 1.3145

**Approved forms**

s 57A ins 2001 No 44 amdt 1.3145

## Endnotes

### 5 Earlier republications

---

#### **Refusal to permit examination of books etc**

s 58 (prev s 51) am 1966 No 19 sch 1; 1979 No 26 sch; 1993 No 88 sch  
renum 1993 No 88 s 29  
am 1994 No 81 sch  
sub A2004-15 amdt 2.142

#### **Offences by companies**

s 59 (prev s 52) am 1966 No 19 sch 1  
sub 1979 No 26 s 7  
am 1984 No 64 s 20  
renum 1993 No 88 s 29  
am 1994 No 81 sch  
om 1998 No 54 sch  
ins 2001 No 84 s 78

#### **Acts and omissions of representatives**

s 59A ins 2001 No 84 s 78  
sub A2004-15 amdt 1.37

#### **Miscellaneous**

pt 6 hdg om 1982 No 32 s 13

#### **Regulation-making power**

s 60 (prev s 54) am 1933 No 21 s 8; 1966 No 19 sch 1; 1979 No 26 sch; 1981 No 51 s 13; 1982 No 32 s 14; 1984 No 64 s 22; 1989 No 38 sch 1  
renum 1993 No 88 s 29  
am 1998 No 54 sch  
sub 2001 No 44 amdt 1.3146

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 63	31 March 1991
2	Act 1993 No 88	31 January 1994
3	Act 1994 No 97	28 February 1995

Republication No	Amendments to	Republication date
4	<u>Act 2001 No 84</u>	30 April 2002
5 (RI)	Act 2001 No 84 ‡	22 October 2002
6	A2003-14	28 March 2003

‡ includes retrospective amendments by Act 2002 No 49

## 6 Renumbered provisions

as made by the *Pharmacy (Amendment) Act 1993* No 88

previous number	provision heading	renumbered or inserted as
5	Interpretation for Act	2
5A	Competence to practise pharmacy	3
5B	Impairment	4
6	Pharmacy Board	5
7	Constitution of board	6
8	Inspectors	7
9	Powers of inspectors	8
10	Registration based on qualifications and training	9
11	Registration under mutual recognition principle	10
12	Registration at discretion of board	11
13	Interim registration	12
14	Conditions of registration in cases of impairment	13
15	Refusal of registration if applicant convicted of offence	14
16	Refusal of registration if applicant deregistered outside ACT	15
17	Applicants to be competent and of good character	16
18	Restriction on registration of deregistered or suspended persons	17

## Endnotes

6 Renumbered provisions

previous number	provision heading	renumbered or inserted as
19	Applications for registration	18
20	Applications to be considered and determined	19
21	Registration of applicants	20
22	Fee for registration pursuant to Mutual Recognition Act	21
23	Conditions of registration	22
24	Register	23
24A	Particulars to be entered in register	24
24B	Deregistration on basis of disciplinary action under foreign law	25
24C	Imposition of conditions imposed under foreign law	26
24D	Cessation of registration	27
24E	Annual registration fee	28
24F	Registration to be cancelled for nonpayment	29
24G	Entitlement to re-registration on payment of fees	30
25	Certificate of registration	31
27	Change of address to be notified	32
28	Alteration of register	33
31B	Publication of names etc of registered pharmacists	34
32	Cancellation or suspension of registration	35
32A	Cancellation, suspension or restriction of right of practise on health grounds	36
32B	Practising when registration suspended	37
32C	Power of board to caution, reprimand etc.	38
32D	Power of board to impose fines	39
32E	Application for re-registration	40
33	Inquiry by board	41

<b>previous number</b>	<b>provision heading</b>	<b>renumbered or inserted as</b>
35	Persons other than registered pharmacists not to practise	42
35A	Administration of estate of deceased pharmacist	43
36	Publication of notice of decision of board or administrative appeals tribunal	44
37	Name of pharmacist to be exhibited	45
40	Prescriptions to be signed	46
41	Record of prescriptions	47
42	Conduct of business by pharmacist	48
43	Medical practitioner etc may dispense medicines	49
44	Automatic machines for vending medicines prohibited	50
45	Restrictions upon the supply of certain medicines etc	51
46	Certain advertisements prohibited	52
47	Standard of drugs	53
47A	Review of decisions	54
47B	Notification of decisions	55
48	Inspection of register	56
50	Determination of fees	57
51	Obstruction an offence	58
52	Penalty for offences	59
54	Regulations	60

## Endnotes

7 Uncommenced amendments

---

### 7 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 5</b>
---

## Part 5 Pharmacy Act 1931

### 10 Legislation amended—pt 5

This part amends the *Pharmacy Act 1931*.

### 11 New section 4A

*in part 1, insert*

### 4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

#### *Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 51 (Restrictions on supply of certain medicines etc).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

#### *Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**12 Sections 46 and 47***substitute***46 Prescriptions to be signed and dated etc**

A person who issues a prescription (the *prescriber*) must—

- (a) issue the prescription on which the prescriber's full name is printed; and
- (b) sign and date the prescription.

*Note* The *Poisons Regulations 1933* also contain provisions about prescriptions.

**47 Record of prescriptions**

- (1) A pharmacist must keep a record of every prescription dispensed, compounded or made up by the pharmacist.
- (2) The record must be made in accordance with the regulations (if any).

**13 Section 51***substitute***51 Restrictions on supply of certain medicines etc**

- (1) A person commits an offence if—
  - (a) the person is not—
    - (i) a doctor; or
    - (ii) an authorised nurse practitioner; or
    - (iii) acting in accordance with a doctor's direct instructions to the person; and

## Endnotes

- (b) the person intentionally attends on, prescribes for, or supplies a substance or instrument to, someone else—
  - (i) for the treatment or cure of a sexual health condition (whether or not the other person has the condition); or
  - (ii) for menstrual problems; or
  - (iii) to influence the course of a pregnancy.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Absolute liability applies to subsection (1) (a) (i).
- (3) Strict liability applies to subsection (1) (a) (ii) and (iii).
- (4) Subsection (1) does not apply to—
  - (a) a registered pharmacist who dispenses a substance or instrument to someone else under a prescription given by a doctor or nurse practitioner; or
  - (b) a registered pharmacist who, in the ordinary course of the pharmacist's business, sells or supplies a substance or instrument (other than a substance or instrument prescribed under the regulations) for a purpose other than a purpose mentioned in subsection (1) (b).
- (5) In this section:

***authorised nurse practitioner*** means a nurse practitioner who is the occupant of a nurse practitioner position acting within the scope of practice for the position.

***nurse practitioner position***—see the *Health Act 1993*, section 37B (2).

***scope of practice***—see the *Health Act 1993*, section 37B (2).

***sexual health condition*** means—

- (a) a sexually transmitted disease; or
- (b) a disease affecting a reproductive organ or function; or
- (c) impotence; or
- (d) an ailment relating to sexual intercourse.

***sexually transmitted disease***—see the *Sexually Transmitted Diseases Act 1956*, section 4.

*Note* Under the *Sexually Transmitted Diseases Act 1956*, s 4 a ***sexually transmitted disease*** is chancroid, chlamydial disease, donovanosis, gonorrhoea, HIV/AIDS, lymphogranuloma venereum, syphilis or a disease prescribed by regulations under that Act.

© Australian Capital Territory 2004