# AUSTRALIAN CAPITAL TERRITORY

# Pharmacy (Amendment) Ordinance 1984

**No. 64 of 1984**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 26 October 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

NEAL BLEWETT
Minister of State for Health

An Ordinance to amend the *Pharmacy Ordinance 1931*

**Short title**

**1.** This Ordinance may be cited as the *Pharmacy (Amendment) Ordinance 1984*.[1]

**Commencement**

**2.** This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories and Local Government by notice in the *Gazette*.

**Principal Ordinance**

**3.** In this Ordinance, "Principal Ordinance" means the *Pharmacy Ordinance 1931*.[2]

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

**Repeal of sections 2 and 3**

**4.** Sections 2 and 3 of the Principal Ordinance are repealed.

**Interpretation**

5. Section 5 of the Principal Ordinance is amended—

(a) by omitting from sub-section (1) the definition of "medicated wine" and substituting the following definitions:

" 'dentist' means a person registered as a dentist under the *Dentists Registration Ordinance 1931*;

'inspector' means a person appointed to be an inspector under section 44;

'medical practitioner' means a person registered as a medical practitioner under the *Medical Practitioners Registration Ordinance 1930*;";

(b) by omitting from sub-section (1) the definitions of "registered medical practitioner" and "registered veterinary surgeon";

(c) by omitting "or license" from the definition of "registration authority" in sub-section (1);

(d) by omitting "twenty-one of this Ordinance" from the definition of "the Register" in sub-section (1) and substituting "21";

(e) by adding at the end of sub-section (1) the following definitions:

" 'Tribunal' means the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act 1975*;

'veterinary surgeon' means a person registered as a veterinary surgeon under the *Veterinary Surgeons Registration Ordinance 1965*."; and

(f) by adding at the end thereof the following sub-sections:

"(3) A reference in a provision of this Ordinance to a prescribed fee shall be read as a reference to the fee determined under section 50 for the purposes of that provision.

"(4) For the purposes of this Ordinance, a person shall be deemed to practise pharmacy if—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) he practises pharmacy personally on his own account or as a member of a firm;

(b) in the course of a business carried on by him, a person or persons employed by him is or are engaged in the practice of pharmacy; or

(c) he 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.".

**6.** After section 7 of the Principal Ordinance the following sections are inserted:

**Appointment of inspectors**

"8. (1) The Minister may, by instrument in writing, appoint such persons as he considers necessary to be inspectors for the purposes of this Ordinance.

"(2) The Minister shall issue to each person appointed under this section a certificate signed by the Minister and stating that that person is an inspector for the purposes of this Ordinance.

**Powers of inspectors**

"9. (1) Subject to this Ordinance, 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 in pursuance of sub-section (1) is not authorized to remain on the premises if, on request by the occupier, or person in charge, of the premises, he does not produce the certificate issued to him for the purpose of sub-section 8 (2).".

**Repeal of section 20**

**7.** Section 20 of the Principal Ordinance is repealed.

**8.** Section 32 of the Principal Ordinance is repealed and the following sections are substituted:

**Cancellation of registration**

"32. The Board may cancel the registration of a person—

(a) whose registration has been obtained by fraud or misrepresentation;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) whose qualification is withdrawn or cancelled by the body which granted it;

(c) whose registration in a State or another Territory is cancelled, suspended or otherwise withdrawn on a ground other than the non-payment of a fee;

(d) who is—

(i) convicted of an offence against this Ordinance or against any regulations made under this Ordinance; or

(ii) convicted in the Territory or elsewhere of an offence punishable by imprisonment for a period of one year or longer or any other offence that, in the opinion of the Board, renders him unfit to practise as a pharmacist;

(e) whose physical or mental condition is such as to render him unfit to practise as a pharmacist; or

(f) who is guilty of any conduct that, in the opinion of the Board, renders him unfit to practise as a pharmacist.

**Suspension of registration**

"32A. (1) The Board may suspend, for such period as it thinks fit, the registration of a person—

(a) whose registration in a State or another Territory is suspended on a ground other than the non-payment of a fee; or

(b) who is found by the Board to have been guilty of habitual drunkenness or addiction to a drug.

"(2) The Board may, instead of suspending the registration of a person to whom paragraph (1) (b) applies, reprimand the person.

"(3) In the case of a person to whom paragraph 32 (d), (e) or (f) applies, the Board may, instead of cancelling the registration of the person—

(a) suspend the registration of the person for such period as it thinks fit; or

(b) reprimand the person.".

**9.** Section 33 of the Principal Ordinance is repealed and the following section substituted:

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

**Inquiry by Board**

"33. (1) The Board shall hold an inquiry before—

(a) cancelling the registration of a person;

(b) suspending the registration of a person; or

(c) reprimanding a person.

"(2) Pending the holding of an inquiry under sub-section (1), the Board may suspend temporarily the registration of the person to whom the inquiry relates.".

**Appeal**

**10.** Section 33A of the Principal Ordinance is amended—

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

"(a) refusing to authorize the registration or re-registration of a person;

(b) cancelling, otherwise than under sub-section 26 (4), the registration of a person;

(c) suspending, otherwise than under sub-section 33 (2), the registration of a person;

(d) reprimanding a person; or

(e) refusing to permit an extension of the period under section 35A."; and

(b) by omitting sub-section (2).

**11.** After section 33A of the Principal Ordinance the following section is inserted:

**Re-registration**

"34. (1) Where the registration of a person is cancelled pursuant to sub-section 26 (4) and the person is not re-registered pursuant to sub-section 26 (5), the person may apply to the Board to be re-registered.

"(2) An application under sub-section (1) shall be in writing signed by the applicant and shall be lodged with the Board not later than 2 years after the expiration of the period of 12 months referred to in sub-section 26 (5).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

"(3) Where, on an application made under this section, the Board is satisfied that the applicant—

(a) is a fit and proper person to be registered as a pharmacist; and

(b) has paid the prescribed fee,

the Board shall authorize the re-registration of the applicant.".

**Persons other than registered pharmacists not to practise**

**12.** Section 35 of the Principal Ordinance is amended—

(a) by omitting from sub-section (1) all the words after "similar meaning," and substituting "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 he is a pharmacist or is qualified to perform the functions of a pharmacist or that he is carrying on business as a pharmacist, shall be guilty of an offence.

Penalty: $1,000."; and

(b) by omitting sub-section (2) and substituting the following sub-section:

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

Penalty: $1,000.".

**13.** After section 35 of the Principal Ordinance the following section is inserted:

**Administration of estate of deceased pharmacist**

"35A. Upon the death of a deceased pharmacist who was at the time of his death carrying on business as a pharmacist, an executor, administrator or trustee of his estate may continue the business for a period of 6 months or for such longer period as 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.".

**14.** Section 36 of the Principal Ordinance is repealed and the following section substituted:

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

**Publication of notice of decision of Board or Tribunal**

"36. (1) The Chairman may, if he thinks fit, cause notice of a decision of the Board or of the Tribunal on application for a review of a decision of the Board—

(a) cancelling the registration of a person;

(b) reprimanding a person; or

(c) suspending, otherwise than under sub-section 33 (2), the registration of a person,

and the reasons for the decision, including the findings on material questions of fact, to be published in the *Gazette*.

"(2) Notice of a decision shall not be published under sub-section (1) until—

(a) the period within which an application may be made to the Tribunal for a review of the decision has expired; and

(b) if an application for review of the decision is made, the Tribunal has given its decision on the application.".

**15.** Section 37 of the Principal Ordinance is repealed and the following section substituted:

**Name of pharmacist to be exhibited**

"37. (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 5 centimetres 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 sub-section (1) is guilty of an offence punishable, on conviction, by a fine not exceeding—

(a) in the case of a company—$1,000; and

(b) in any other case—$500.".

**Repeal**

**16.** Section 38 of the Principal Ordinance is repealed.

**Conduct of business by pharmacist**

**17.** Section 42 of the Principal Ordinance is amended—

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(a) by omitting from paragraph (d) "in his own name" and substituting "in the name under which he is registered as a pharmacist";

(b) by omitting paragraph (e); and

(c) by omitting from paragraph (f) "or surgical".

**Medical practitioner, &c., may dispense medicines**

**18.** Section 43 of the Principal Ordinance is amended by omitting "registered medical practitioner or registered veterinary surgeon" and substituting "dentist, medical practitioner or veterinary surgeon".

**19.** After section 49 of the Principal Ordinance the following section is inserted:

**Power of Minister to determine fees**

"50. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Ordinance.".

**Penalty for offences**

**20.** Section 52 of the Principal Ordinance is amended by omitting "$100" and substituting "$250".

**21.** After section 52 of the Principal Ordinance the following section is inserted:

**Notification of decisions**

"53. (1) Where the Board makes a decision—

(a) refusing to authorize the registration or re-registration of a person; or

(b) refusing to permit an extension of the period under section 35A,

or the Chairman makes a decision refusing to grant, or to renew temporary registration, the Board or the Chairman, as the case may be, shall cause a statement in writing to be given to the person whose interests are adversely affected by the decision, setting out the decision, the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving the reasons for the decision.

"(2) A statement made by the Board or the Chairman under sub-section (1) or a statement made by the Board under section 31 of the *Health Professions Boards (Procedures) Ordinance 1981* shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

interests are adversely affected by the decision to which the statement relates is entitled to apply to the Tribunal for a review of the decision.

"(3) The validity of a decision to which a statement under sub-section (1) or under section 31 of the *Health Professions Boards (Procedures) Ordinance 1981* relates shall not be taken to be affected by a failure to comply with sub-section (2).".

## Regulations

**22.** Section 54 of the Principal Ordinance is amended—

(a) by inserting after paragraph (b) the following paragraph:

"(c) the construction, conduct and equipment of premises at which the business of a pharmacy is carried on; and";

(b) by omitting paragraphs (d) to (ga) (inclusive); and

(c) by omitting from paragraph (h) "$100" and substituting "$500".

---

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 2 November 1984.

2. No. 10, 1931 as amended by No. 21, 1933; No. 27, 1937; No. 21, 1959; No. 22, 1964; No. 19, 1966; No. 18, 1967; No. 37, 1970; No. 18, 1971; No. 44, 1972; No. 31, 1973; No. 47, 1974; Nos. 17 and 43, 1975; No. 65, 1977; No. 46, 1978; No. 26, 1979; No. 50, 1980; No. 51, 1981; Nos. 32 and 44, 1982.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au