

## PHARMACY AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Pharmacy Act 1939. The main purpose of the Bill is to revise the disciplinary provisions of the principal Act.

*Clause 2* provides that service in the dispensary of a military establishment may be treated by the Board in approved cases as the equivalent of service as the apprentice of a chemist.

*Clause 3* prescribes the procedure when a complaint is made against a chemist. The main difference between this clause and the existing legislation is that disciplinary action may be taken under the proposed legislation against chemists in respect of addiction to drugs or habitual intoxication, the commission of offences under the Social Security Act 1964, the Poisons Act 1960, or the Dangerous Drugs Act 1927, and the wilful disobedience of certain rules of the Pharmaceutical Society.

*Clause 4* prescribes in detail the disciplinary powers which the Board may exercise. These are similar to existing powers but the fine which the Board may impose is increased from £50 to £100. A new provision provides that where a chemist is suspended he will not be forced to sell his pharmacy but will be deemed to be a chemist for the purposes of those provisions of the Act which prohibit any person other than a chemist from carrying on a pharmacy. He will not be entitled to take part in the management of the pharmacy.

*Clause 5* provides for the restoration of the name of a chemist to the register after the name has been removed.

*Clause 6* constitutes the Disciplinary Committee and the Board of Appeal as Commissions of Inquiry for the purpose of exercising their powers.

*Clause 7* authorises the making of regulations prescribing practising fees payable by chemists. It also authorises the making of regulations providing for the inspection of the books and records of owners of pharmacies.

*Hon. Mr McKay*

## PHARMACY AMENDMENT

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### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the Pharmacy Act 1939

BE IT ENACTED by the General Assembly of New Zealand  
in Parliament assembled, and by the authority of the same,  
5 as follows:

1. **Short Title**—This Act may be cited as the Pharmacy Amendment Act 1965, and shall be read together with and deemed part of the Pharmacy Act 1939\* (hereinafter referred to as the principal Act).

\*1957 Reprint, Vol. 11, p. 733

Amendments: 1959, No. 86; 1962, No. 11; 1962, No. 92

**2. Service in military dispensaries**—Section 11 of the principal Act (as substituted by section 3 of the Pharmacy Amendment Act 1959) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Where any applicant for registration has served in the dispensary of a military establishment, the Board may accept that service as the equivalent of service as an apprentice under this section if— 5

“(a) The dispensary is under the control of a chemist; and

“(b) The military establishment is approved in that behalf by the Board; and 10

“(c) The service is for such period and is in accordance with such conditions as may be prescribed by regulations under this Act.”

**3. Complaints against chemists**—The principal Act is hereby amended by repealing section 29, and substituting the following section: 15

“29. (1) Where a complaint is made to the Board or the Board has reason to believe that any chemist—

“(a) Has been guilty of grave impropriety or infamous conduct in a professional respect; or 20

“(b) Has been guilty of professional misconduct or of conduct otherwise unbecoming a chemist; or

“(c) Is addicted to drugs or is habitually intoxicated; or

“(d) Has been convicted by any Court in New Zealand of any offence for which the maximum penalty is not less than two years imprisonment; or 25

“(e) Has been convicted of any offence under this Act, the Social Security Act 1964, the Poisons Act 1960, or the Dangerous Drugs Act 1927; or 30

“(f) Has wilfully disobeyed any rule made under paragraphs (b), (c), and (d) of section 10 of this Act— the Board may direct the Disciplinary Committee to hold an investigation under this section.

“(2) For the purposes of any such investigation the Disciplinary Committee may make, or employ any person to make, whatever preliminary inquiries it deems necessary. 35

“(3) Before the Disciplinary Committee makes any final determination in respect of any matter which it investigates under this section, it shall cause to be served on the chemist concerned a notice specifying the grounds of the charge with sufficient particularity to enable him to answer the same and requiring him to appear before the Disciplinary Committee at a time and place specified in the notice. 40

“(4) If after the investigation of any charge under this section the Disciplinary Committee is of the opinion that the charge has been proved, it may recommend to the Board that it exercise such of the disciplinary powers conferred on it by section 29A of this Act as the Committee thinks fit.”

**4. Disciplinary powers of Board**—(1) The principal Act is hereby further amended by inserting, after section 29 (as substituted by section 3 of this Act), the following section:

“29A. (1) On receiving a recommendation of the Disciplinary Committee under section 29 of this Act, the Board, in its discretion, may give effect to the recommendation wholly or partly, or may take any other action under subsection (2) of this section that is not more severe than that recommended by the Committee.

(2) The disciplinary powers which the Board may exercise in respect of any chemist shall be—

“(a) To impose a penalty upon the chemist not exceeding one hundred pounds:

“Provided that no such penalty may be imposed under this paragraph in any case where the Board is considering any act or omission which constitutes an offence for which the chemist has been convicted by any Court and which is punishable by imprisonment or fine:

“(b) To censure the chemist:

“(c) To suspend the chemist from practice as a chemist for a period not exceeding three years:

“(d) To order the name of the chemist to be removed from the register; and, subject to the provisions of this Act, the person shall thereupon cease to be registered as a chemist:

“(e) To order the person to pay any costs and expenses of and incidental to the inquiry by the Board and the investigation by the Disciplinary Committee.

“(3) No disciplinary power shall be exercised by the Board under this section by reason of any offence referred to in paragraph (d) or paragraph (e) of subsection (1) of section 29 of this Act committed before the date of his registration if at that date the Board was aware of his conviction in respect of that offence.

“(4) Every decision made by the Board under this section shall be in the form of an order signed by the President and shall contain a statement of the decisions of the Board in relation to the case. A copy of every such order shall be forwarded to the person against whom the order was made and to the Chairman of the Disciplinary Committee. 5

“(5) Every monetary penalty imposed, and all costs and expenses payable, shall be recoverable under this section as a debt due to the Society.

“(6) While an order of suspension from practice as a chemist under this section remains in force, the person to whom it relates shall, for the purposes of this Act other than section 29 and this section, be deemed not to be a chemist, but forthwith on the expiry of the order his rights and privileges as a registered chemist shall be revived as from the date of the expiry: 10 15

“Provided that, notwithstanding any other provision of this Act, any person suspended from practice under this section shall, if the Board in its discretion so directs, be deemed to be a chemist for the purposes of sections 3 and 3A of the Pharmacy Amendment Act 1954, but for no other purpose. 20

“(7) No order under this section shall take effect until the expiration of twenty-one days after the date of notification by the Registrar to the person affected by the making of the order. If within the said period of twenty-one days the person gives due notice of appeal under section 31 of this Act, the order shall not take effect, and no penalty or costs or expenses shall be payable, unless and until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board: 25 30

“Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence, and the penalty or costs or expenses specified in the order shall be payable on the day when the order commences to have effect. 35

“(8) Except with the consent of the chemist concerned, no decision shall be made by the Board to cause the name of any chemist to be removed from the register under this section unless the Board is of the opinion that he is unfit to be registered as a chemist and unless at least nine members of the Board are present and vote in favour of the decision.” 40

(2) Section 26 of the principal Act is hereby repealed.

**5. Restoration of name to register**—The principal Act is hereby further amended by inserting, after section 29A (as inserted by section 4 of this Act), the following section:

5 “29B. (1) Every chemist whose name has been removed from the register under this Act may apply to the Board for the restoration of his name to the register.

“(2) On the hearing of any such application, the Board, if it is satisfied that the applicant is a fit and proper person to be registered as a chemist, may order that the name of the applicant be restored to the register.

10 “(3) Where any such application is refused by the Board, no further application under this section shall be made by the applicant until the expiration of twelve months after the date of the refusal.”

15 **6. Disciplinary Committee and Board of Appeal to be Commissions of Inquiry**—(1) The principal Act is hereby further amended by inserting, after section 31, the following section:

20 “(6) The Disciplinary Committee and the Board of Appeal shall be deemed to be Commissions of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act, except sections 11 and 12, shall apply accordingly.”

(2) Subsection (5) of section 27 of the principal Act is hereby repealed.

25 **7. Regulations**—(1) Subsection (2) of section 44 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

30 “(cc) Prescribing the practising fees payable by chemists and prescribing different practising fees for different classes of chemists:”.

(2) Subsection (2) of section 44 of the principal Act is hereby further amended by adding the following paragraph:

35 “(n) For the purpose of ensuring compliance with the provisions of this Act, providing for the investigation of the books and records of owners of pharmacies and prescribing the powers, functions, and duties of persons appointed to carry out any such investigations.”