



PHARMACY.

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 No. 77 of 1973.
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 AN ACT to amend the *Pharmacy Act 1908*.
 [19 December 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Pharmacy Act 1973*.

Short title and
 citation.

(2) The *Pharmacy Act 1908*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section two of the Principal Act is amended—

(a) by inserting before the definition of “ register ” the following definitions:—

“ ‘ after hours pharmacy ’ means a pharmacy—

(a) in which a pharmaceutical business is carried on by a partnership consisting of at least five registered pharmaceutical chemists; and

(b) that, in the course of the carrying on of that business, is kept open to the public, on each day of the year, during the prescribed hours, whether or not it is also kept open to the public during any other hours;

“ ‘ ordinary pharmacy ’ means a pharmacy other than an after hours pharmacy;

“ ‘ pharmaceutical business ’ means such a business as is referred to in paragraph (d) of subsection (1) of section twenty-nine;

“ ‘ pharmacy ’ means a shop or other place, or part of a shop or other place, in which a pharmaceutical business is, or is intended to be, carried on;

“ ‘ prescribed hours ’ means the hours between—

(a) half-past nine o’clock in the forenoon and twelve noon on a Saturday, bank holiday, or public holiday; and

(b) half-past six o’clock and half-past nine o’clock in the afternoon of every day (including a day referred to in paragraph (a) of this definition)”; and

(b) by adding at the end of that section the following subsections:—

“(2) For the purposes of this Act, a person holds an interest in a pharmacy or in the business carried on in a pharmacy if he has or acquires, whether in his own name or in the name of a nominee or by means of a device or an arrangement, any direct or indirect estate or interest in the pharmacy or in that business, so as to affect the ownership, management, or control of, or the distribution of the profits derived from, that business.

“(3) Without affecting the generality of subsection (2) of this section, a covenant, condition, or stipulation, expressed or implied, in a contract or an agreement, whereby a registered pharmaceutical chemist who is carrying on a pharmaceutical business is restricted in the buying or obtaining of goods or services necessary for the carrying on of that business is a device or an arrangement affecting the management or control of the business.

“(4) For the purposes of this Act, a person does not hold an interest in a pharmacy or in the business carried on in a pharmacy—

- (a) merely by making, in good faith and in the ordinary course of business to facilitate the carrying on of the business in the pharmacy, a loan of money, or by holding a security for repayment of such a loan; or
- (b) where that business is carried on by or on behalf of the personal representative of the estate of a deceased pharmaceutical chemist, merely by holding an interest in that estate.”.

3 Section twenty-nine of the Principal Act is amended by omitting subsection (2) thereof.

Certain titles to be used only by pharmaceutical chemists.

4 After section twenty-nine of the Principal Act the following sections are inserted:—

“30—(1) Subject to this section and to subsection (2) of section twenty-seven, no—

- (a) body or association of persons, whether incorporated or unincorporated; or
- (b) natural person other than a registered pharmaceutical chemist,

Persons other than registered pharmaceutical chemists not to hold an interest in pharmacies, &c.

Cf. No. 48, 1964 (N.S.W.), s. 25.

shall carry on a pharmaceutical business (whether as owner or otherwise) or hold an interest in a pharmacy or in the business carried on in a pharmacy.

Penalty: Five hundred dollars, together with a daily penalty of twenty dollars in the case of a continuing offence.

“(2) Subsection (1) of this section does not apply to or in relation to—

- (a) a partnership each of the partners in which is a natural person who is a registered pharmaceutical chemist;

- (b) a friendly society that is registered or deemed to be registered under the *Friendly Societies Act 1888*; or
- (c) a person who carries on a pharmaceutical business, or has an interest in a pharmacy or in the business carried on in a pharmacy in such circumstances, or during such a period, as may be prescribed for the purposes of this paragraph.

Limitation of number of pharmacies in which a chemist may have an interest.

“ 30A—(1) No registered pharmaceutical chemist shall, at any one time—

- (a) either alone or in partnership with another registered pharmaceutical chemist—
 - (i) carry on (whether as owner or otherwise) a pharmaceutical business in more than two ordinary pharmacies; or
 - (ii) otherwise hold an interest, direct or indirect, in more than two ordinary pharmacies or in the business carried on in more than two ordinary pharmacies; or
- (b) carry on a pharmaceutical business in more after hours pharmacies than one, or otherwise hold an interest in, or in the business carried on in, more after hours pharmacies than one.

Penalty: Two hundred dollars, together with a daily penalty of twenty dollars in the case of a continuing offence.

“(2) Notwithstanding the provisions of paragraph (b) of subsection (1) of this section, where a registered pharmaceutical chemist carries on business, or holds an interest in the business carried on, in two ordinary pharmacies, he may carry on business or hold an interest in the business carried on in two after hours pharmacies.

“(3) This section does not apply to or in relation to a person who, on the day on which this section commences, is carrying on business, or holds an interest in the business carried on, in more than two ordinary pharmacies or in more after hours pharmacies than one, until—

- (a) that person ceases to carry on business, or to hold an interest in the business carried on, in any one of those pharmacies; or
- (b) the business carried on in any one of those pharmacies ceases to be carried on in the same premises as those in which it was being carried on on that day,

whichever first happens.

“ 30B—(1) No person shall carry on a pharmaceutical business otherwise than in a pharmacy that has been registered under this section and in respect of which the registration is in force. Registration of pharmacies.

Penalty: Two hundred dollars, together with a daily penalty of twenty dollars in the case of a continuing offence.

“(2) An application for registration under this section—

- (a) shall, in the case of a pharmacy in which a pharmaceutical business is being carried on at the commencement of this section, be made within two months after that commencement;
- (b) shall, in any other case, be made before the applicant begins to carry on such a business;
- (c) shall be in the prescribed form and contain the prescribed particulars;
- (d) shall be verified by a statutory declaration made by the applicant; and
- (e) shall be accompanied by the prescribed fee.

“(3) On receipt of an application under this section, the Board—

- (a) may register the pharmacy; or
- (b) may refuse the application or withhold registration of the pharmacy until the applicant complies with such conditions as may be prescribed.

“(4) A person who is aggrieved by a decision of the Board on an application under this section may appeal from that decision to a magistrate (within the meaning of the *Magistrates Act 1969*).

“(5) An appeal under subsection (4) of this section shall be made, heard, and determined as prescribed.

“(6) Nothing in this section applies to or in relation to the carrying on of a pharmaceutical business in any part of a public hospital or private medical establishment within the meaning of the *Hospitals Act 1918*.

“ 30C—(1) No person shall, on or after the expiration of the prescribed period, carry on a pharmaceutical business elsewhere than in a pharmacy that complies with the prescribed requirements (including, but without affecting the generality of this subsection, such requirements as are prescribed in relation to its construction, ventilation, lighting, cleanliness, sanitation, and fittings). Requirements with which pharmacies shall comply.

Penalty: Two hundred dollars.

“(2) Nothing in this section applies to or in relation to the carrying on of a pharmaceutical business in any part of a public hospital or private medical establishment within the meaning of the *Hospitals Act* 1918.

“(3) In this section, ‘prescribed period’ means the period of one year beginning on the day on which this section commences or such longer period ending not later than two years after that day as the Board may, in a particular case, determine.

Avoidance of certain provisions in instruments relating to pharmaceutical businesses.

“30D—(1) This section applies to an instrument—

- (a) that is executed for the purpose of securing the repayment of moneys lent to a registered pharmaceutical chemist in respect of a pharmaceutical business carried on by him; or
- (b) by virtue of which premises used or proposed to be used by such a chemist for the purpose of carrying on such a business are leased or let to him.

“(2) A covenant, condition, or stipulation in an instrument to which this section applies that—

- (a) requires a registered pharmaceutical chemist who is a party to the instrument to buy or otherwise obtain goods or services necessary for the carrying on of that business from a specified person;
- (b) gives to any party to the instrument (other than the registered pharmaceutical chemist)—
 - (i) power to control the manner in which that business is carried on; or
 - (ii) access to the books of account kept in respect of that business; or
- (c) provides that any party to the instrument is to receive any consideration that is subject to variation according to the profits or takings of that business,

is void.

“(3) This section does not apply to or in relation to an instrument that was executed before the day on which this section commences until the expiration of the period of three years beginning on that day.”.

5 Section thirty-eight of the Principal Act is amended by adding Regulations. at the end thereof the following subsection:—

“(5) The regulations may make provision for or with respect to—

- (a) the duration, renewal, suspension, and cancellation of the registration of pharmacies;
- (b) the requirements with which pharmacies are to comply (including, but without affecting the generality of this paragraph, the construction, ventilation, lighting, cleanliness, and sanitation of pharmacies and the kind of fittings that may or may not be installed therein);
- (c) the giving to the Board of notice of structural alterations proposed to be made to pharmacies; and
- (d) the giving by the Board of notices requiring the carrying out of specified structural alterations in pharmacies and the enforcement of the requirements of the Board in relation thereto.”.