Queensland

PHARMACISTS REGISTRATION BILL 2000

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2000

A BILL

FOR

An Act to provide for the registration of pharmacists, and for other purposes

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Division 1—Introduction

Short title

1. This Act may be cited as the *Pharmacists Registration Act 2000*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Division 2—Operation of Act

Act binds all persons

3.(1) This Act binds all persons, including the State.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

The legislative scheme

4. This Act is part of a legislative scheme (the **"legislative scheme"**) consisting of the health practitioner registration Acts, the *Health Practitioner Registration Boards (Administration) Act 1999* and the *Health Practitioners (Professional Standards) Act 1999.*

Board's decisions to accord with decisions of certain bodies under the Health Practitioners (Professional Standards) Act 1999

5.(1) This section applies if the board is making—

(a) a decision on an application for registration; or

(b) a decision, under this Act, affecting a registrant's registration.

(2) The decision must comply with, and be consistent with, any decision of the board, a disciplinary committee, a professional conduct review panel, the Health Practitioners Tribunal or the Court of Appeal, affecting the applicant or registration, under the *Health Practitioners (Professional Standards) Act 1999.*

Application of Act

6.This Act does not limit the application of the *Health Act 1937*.

Mutual recognition legislation not affected

7. This Act does not affect the operation of the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 1999*.

Division 3—Objects

Objects of Act

8.(1) The objects of this Act are—

(a) to protect the public by ensuring health care is delivered by registrants in a professional, safe and competent way; and

(b) to uphold the standards of practice within the profession; and

(c) to maintain public confidence in the profession.

(2) The objects are to be achieved mainly by—

(a) establishing the Pharmacists Board of Queensland; and

(b) providing for the registration of persons under this Act; and

(c) imposing obligations on persons in relation to the practice of the profession; and

(d) providing for compliance with this Act to be monitored and enforced.

Division 4—Interpretation

Definitions

9. The dictionary in schedule 4 defines particular words used in this Act.

PART 2—PHARMACISTS BOARD OF QUEENSLAND

Division 1—Establishment and functions

Establishment of board

10.(1) The Pharmacists Board of Queensland is established.

(2) The board—

(a) is a body corporate; and

(b) has a common seal; and

(c) may sue and be sued in its corporate name.

Board's relationship with the State

11. The board does not represent the State.

Functions of board

12. The board has the following functions—

(a) to assess applications for registration;

(b) to register persons who satisfy the requirements for registration;

(c) to monitor, and assess, whether registrants comply with any conditions of registration;

(d) to keep a register of, and records relating to, registrants;

(e) to promote high standards of practice of the profession by registrants;

(f) to develop or adopt programs for the continuing professional education of registrants, and encourage their participation in the programs;

(g) to develop or adopt training programs in the practice of the profession that are relevant to a person's eligibility for registration;

Example of 'training programs'—

Refresher courses for persons who have not practised the profession for a number of years.

(h) to confer and cooperate with interstate regulatory authorities;

(i) to confer and cooperate with entities engaged in the development of national policies about the regulation of the profession;

(j) to confer and cooperate with the following entities about the education of persons in the practice of the profession—

(i) educational institutions;

(ii) entities responsible for accrediting courses, or accrediting institutions to educate persons, for the profession;

(k) to inform registrants and the public about the operation of the legislative scheme in its application to the profession;

(l) to examine, and advise the Minister about, the operation of the legislative scheme in its application to the profession;

(m) to monitor, and enforce, compliance with this Act;

(n) to undertake research, relevant to the legislative scheme, into the regulation of the profession;

(o) to collect, and give to persons, information about the practice of the profession by registrants;

Example of 'information about the practice of the profession by registrants'—

The languages, other than English, spoken by registrants.

(p) to perform other functions given to the board under this or another Act.

Example for paragraph (p)—

Under the *Health Practitioners (Professional Standards) Act 1999*, section 374, the board may develop codes of practice, or adopt another entity's code of practice, to provide guidance to registrants as to appropriate professional conduct or practice.

Board's independence etc.

13. In performing its functions, the board is to act independently, impartially and in the public interest.

Powers of board

14.(1) The board has all the powers of an individual, and may, for example—

(a) enter into contracts; and

(b) enter into service agreements; and

(c) acquire, hold, dispose of, and deal with, property; and

(d) appoint agents and attorneys; and

(e) engage consultants; and

(f) fix charges, and other terms, for services and other facilities it supplies; and

(g) do anything else necessary or convenient to be done for, or in connection with, its functions.

(2) This section does not authorise the board to obtain administrative and operational support other than as required by the *Health Practitioner Registration Boards (Administration) Act 1999*.

(3) Without limiting subsection (1), the board has the powers given to it under this or another Act.

(4) The board may exercise its powers inside or outside Queensland.

(5) Without limiting subsection (4), the board may exercise its powers outside Australia.

Delegation by board

15.(1) The board may delegate its powers under this Act to—

(a) a member; or

(b) a committee of the board consisting of appropriately qualified persons, 1 of whom must be a member; or

(c) the executive officer; or

(d) with the agreement of the executive officer—an appropriately qualified member of the office's staff.

(2) However, the board may not delegate its power under this Act—

(a) to decide to register, or refuse to register, an applicant for registration; or

(b) to decide to refuse to renew a renewable registration; or

(c) to decide to refuse to restore a renewable registration; or

(d) to decide to cancel a registration; or

(e) to decide to impose, or remove, conditions on a registration; or

(f) to enter into a service agreement.

(3) In this section—

"appropriately qualified" includes having the qualifications, experience or standing appropriate to exercise the power.

Example of 'standing' for a member of the office's staff—

The staff member's classification level in the office.

Division 2—Membership

Membership of board

16.(1) The board consists of at least 7, but not more than 11, members appointed by the Governor in Council.

(2) The board must include—

(a) persons who are general registrants (the **"registrant members"**); and

(b) persons (the **"public members"**) having an interest in, and knowledge of, consumer health issues who are not, and have not been—

(i) registered under a health practitioner registration Act or an earlier corresponding Act; or

(ii) registered or enrolled under the *Nursing Act 1992* or an earlier corresponding Act; or

(iii) registered or enrolled under a law applying, or that applied, in another State or foreign country that provides, or provided, for the same matter as a health practitioner registration Act or the *Nursing Act 1992* or a provision of the Act; and

(c) 1 lawyer nominated by the Minister.

(3) Also, the Minister may nominate persons who do not belong to the categories of persons mentioned in subsection (2) to be members.

(4) A majority of the members must be registrant members.

(5) In this section—

"earlier corresponding Act", in relation to a health practitioner registration Act, means an earlier Act that provided for the same matter as the health practitioner registration Act or a provision of the health practitioner registration Act.

"earlier corresponding Act", in relation to the *Nursing Act 1992*, means an earlier Act that provided for the same matter as the *Nursing Act 1992* or a provision of the *Nursing Act 1992*.

Registrant members

17. The registrant members must consist of—

(a) at least 2 general registrants nominated by the bodies the Minister considers represent the interests of registrants; and

(b) if there are educational institutions established in the State—1 general registrant nominated by the governing bodies of the institutions chosen by the Minister; and

(c) at least 1 general registrant nominated by the Minister.

Public members

18. The public members must consist of—

(a) at least 1 person nominated by community groups and other entities the Minister considers have an interest in consumer health issues; and

(b) at least 1 other person nominated by the Minister.

Certain nominee board members

19.(1) This section applies for the nomination of a person or persons for a position or positions on the board under section 17(a) or (b) or 18(a).

(2) The Minister must give the entities who may make the nomination notice stating a reasonable period within which they may nominate the person or persons for the position or positions.

(3) The Minister may in the notice ask the entities to nominate more than the required number of persons for the position or positions.

(4) Subject to subsections (5) and (6), if the entities nominate more than the required number of persons for the position or positions—

(a) the Minister must choose the nominee or nominees for the position or positions from the nominations; and

(b) the person or persons chosen are taken to be the nominee or nominees, under the relevant provision mentioned in subsection (1), for the position or positions.

(5) Subsection (6) applies if—

(a) the entities do not nominate a person or persons for the position or positions within the period stated in the notice; or

(b) the entities nominate a number of persons for the position or positions that is less than the number requested by the Minister under subsection (3); or

(c) the person or any of the persons nominated by the entities are not eligible to be appointed to the position or positions concerned.

(6) The Minister must nominate a person or persons eligible to be appointed to the position or positions and the nomination or nominations are taken to have been made by the entities.

(7) To remove doubt, if subsection (5)(b) applies, it is declared that a nomination under subsection (6) may be of, or include, a person or persons nominated by the entities.

Chairperson and deputy chairperson of board

20.(1) The Governor in Council is to appoint a registrant member to be the chairperson, and another registrant member to be the deputy chairperson, of the board.

(2) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.

(3) The chairperson or deputy chairperson holds office for the term decided by the Governor in Council, unless the person's term of office as a member ends sooner than the person's term of office as chairperson or deputy chairperson.

(4) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a registrant member.

(5) However, a person resigning the office of chairperson or deputy chairperson may continue to be a member.

(6) The deputy chairperson is to act as chairperson—

(a) during a vacancy in the office of chairperson; and

(b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

Term of appointment

21. A member is to be appointed for a term of not more than 4 years.

Disqualification from membership

22.(1) A person can not become, or continue as, a member if the person—

(a) is affected by bankruptcy action; or

(b) is, or has been, convicted of an indictable offence; or

(c) is, or has been, convicted of an offence against this Act.

(2) For subsection (1)(a), a person is affected by bankruptcy action if the person—

(a) is bankrupt; or

(b) has compounded with creditors; or

(c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

Vacation of office

23.(1) A member is taken to have vacated office if the member—

(a) resigns his or her position on the board by signed notice of resignation given to the Minister; or

(b) can not continue as a member under section 22; or

(c) is absent without the board's permission from 3 consecutive meetings of the board of which due notice has been given.

(2) Also, a member is taken to have vacated office in any of the following circumstances—

(a) if the member is a registrant member—the member stops being a general registrant;

(b) if the member is a public member—the member stops being a person mentioned in section 16(2)(b);

(c) if the member was nominated, for membership of the board, under section 16(2)(c)—the member stops being a lawyer.

(3) In this section—

"meeting" means the following—

(a) if the member does not attend—a meeting with a quorum present;

(b) if the member attends—a meeting with or without a quorum present.

When notice of resignation takes effect

24. A notice of resignation under section 20(4) or 23(1)(a) takes effect when the notice is given to the Minister or, if a later time is stated in the notice, the later time.

Leave of absence for a member

25.(1) The Minister may approve a leave of absence for a member (the **"approved absent member"**) of more than 3 months.

(2) The Minister may appoint another person to act in the office of the approved absent member while the member is absent on the approved leave.

(3) A person appointed under subsection (2) must belong to the same category of persons mentioned in section 16(2) or (3) to which the approved absent member belongs.

(4) If the approved absent member is the deputy chairperson, the Minister may appoint another registrant member to act in the deputy chairperson's office while the deputy chairperson is absent on the approved leave.

Effect of vacancy in membership of board

26.(1) Subsection (2) applies despite sections 16 to 18.[1]

(2) The performance of a function, or exercise of a power, by the board is not affected merely because of a vacancy in the membership of the board.

Remuneration of members

27. A member is entitled to be paid the fees and allowances decided by the Governor in Council.

Division 3—Board business

Conduct of business

28. Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

Times and places of meetings

29.(1) Board meetings are to be held at the times and places the chairperson decides.

(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least the number of members forming a quorum for the board.

Quorum

30. A quorum for the board is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

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1 Sections 16 (Membership of board), 17 (Registrant members) and 18 (Public members)

Presiding at meetings

31.(1) The chairperson is to preside at all meetings of the board at which the chairperson is present.

(2) If the chairperson is absent from a board meeting, but the deputy chairperson is present, the deputy chairperson is to preside.

(3) If the chairperson and deputy chairperson are both absent from a board meeting or the offices are vacant, a registrant member chosen by the members present is to preside.

Conduct of meetings

32.(1) A question at a board meeting is decided by a majority of the votes of the members present.

(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

(4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

Example of 'technology allowing reasonably contemporaneous and continuous communication'—

Teleconferencing.

(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

(a) a majority of the board members gives written agreement to the resolution; and

(b) notice of the resolution is given under procedures approved by the board.

Minutes

33.(1) The board must keep—

(a) minutes of its meetings; and

(b) a record of any resolutions made under section 32(6).

(2) Subsection (3) applies if a resolution is passed at a board meeting by a majority of the members present.

(3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution.

Division 4—Board committees

Committees

34.(1) The board may establish committees of the board for effectively and efficiently performing its functions.

(2) A committee may include a person who is not a member of the board.

(3) The board is to decide the terms of reference of a committee.

(4) The functions of a committee are to—

(a) advise and make recommendations to the board about matters, within the scope of the board's functions, referred by the board to the committee; and

(b) exercise powers delegated to it by the board.[2]

(5) A committee must keep a record of the decisions it makes when exercising a power delegated to it by the board.

(6) The board may decide matters about a committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings.

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2 See section 15 for the board's power of delegation.

Remuneration of committee members

35. A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

Division 5—Disclosure of interests by board members and committee members

Disclosure of interests

36.(1) This section applies to a board or committee member (the **"interested person"**) if—

(a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board or committee; and

(b) the interest could conflict with the proper performance of the person's duties about the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a board or committee meeting.

(3) Unless the board or committee otherwise directs, the interested person must not—

(a) be present when the board or committee considers the issue; or

(b) take part in a decision of the board or committee about the issue.

(4) The interested person must not be present when the board or committee is considering whether to give a direction under subsection (3).

(5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

(a) be present when the board or committee is considering whether to give a direction under subsection (3) about the interested person; or

(b) take part in making the decision about giving the direction.

(6) If—

(a) because of this section, a board or committee member is not present at a board or committee meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and

(b) there would be a quorum if the member were present;

the remaining persons present are a quorum of the board or committee for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

(7) A disclosure under subsection (2) must be recorded in the board's or committee's minutes.

(8) If the interested person is a registrant member, the person does not have a direct or indirect interest in an issue if the interest arises merely because the person is a registrant.

Division 6—Directions by Minister

Minister's power to give directions in the public interest

37.(1) The Minister may give the board a written direction about a matter relevant to the performance of its functions under this Act if the Minister is satisfied it is necessary to give the direction in the public interest.

(2) Without limiting subsection (1), the direction may be to—

(a) give reports and information; or

(b) apply to the board a policy, standard or other instrument applying to a public sector unit.

(3) The direction can not be about—

(a) the registering of, or refusal to register, an applicant for registration; or

(b) the renewing of, or refusal to renew, a renewable registration; or

(c) the restoring of, or refusal to restore, a renewable registration; or

(d) the cancelling of a registration; or

(e) the imposing, or removal, of conditions on a registration.

(4) Despite section 13,[3] the board must comply with the direction.

Division 7—Annual reports

Matters to be included in annual report

38.(1) The board's annual report under the *Financial Administration and Audit Act 1977* for a financial year must include the following—

(a) copies of all ministerial directions given to the board under section 37 during the financial year;

(b) the number of registrants at the end of the financial year;

(c) details of the amount of the board's funds spent, in the financial year, on investigations and inspections under part 5;[4]

(d) details of the amount of the board's funds spent, in the financial year, on developing or adopting training programs in the practice of the profession that are relevant to a person's eligibility for registration;

(e) details of the amount of the board's funds spent in the financial year on research, relevant to the legislative scheme, into the regulation of the profession;

(f) details of any policies or programs developed, or initiatives taken, by the board in the financial year for the general benefit of users of registrants' services.

(2) However, the board must exclude from the copies mentioned in subsection (1)(a) all information likely to identify a person mentioned in the direction.

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3 Section 13 (Board's independence etc.)

4 Part 5 (Investigation and enforcement)

Division 8—Other provisions about the board

Board is statutory body under the Financial Administration and Audit Act 1977

39. The board is a statutory body under the *Financial Administration and Audit Act 1977*.

Board is statutory body under the Statutory Bodies Financial Arrangements Act 1982

40.(1) The board is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B[5] sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Board's common seal

41. The board's common seal is to be kept in the custody of a person nominated by the board and may be used only as authorised by the board.

PART 3—REGISTRATION

Division 1—Preliminary

Who may apply for registration

42. Only an individual may apply for registration.

5 *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

Division 2—Applications for general registration

Subdivision 1—Applications

Procedural requirements for applications

43.(1) An application for general registration must—

(a) be made to the board; and

(b) be in the approved form; and

(c) be accompanied by—

(i) satisfactory evidence of—

(A) relevant qualifications; and

(B) having completed training in the practice of the profession under section 47; and

(C) having completed a period of practice in the profession under section 48; and

(ii) the application fee prescribed under a regulation (the **"application fee"**); and

(iii) the registration fee prescribed under a regulation (the **"registration fee"**); and

(iv) any other documents, identified in the approved form, the board reasonably requires; and

(v) if the applicant is registered under a corresponding law, written details of any conditions of the registration.

(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

Subdivision 2—Eligibility for general registration

Eligibility

44.(1) An applicant for general registration is eligible for general registration if—

(a) the applicant is qualified for general registration under section 45; and

(b) the applicant is fit to practise the profession; and

(c) the applicant has completed training in the practice of the profession under section 47; and

(d) the applicant has completed a period of practice in the profession under section 48.

(2) Without limiting subsection (1), the board may be satisfied the applicant is eligible for general registration by imposing conditions on the registration under section 61.[6]

When applicant is qualified for general registration

45.(1) An applicant for general registration is qualified for general registration if—

(a) the applicant has a qualification prescribed under a regulation; or

(b) the applicant has a qualification that is substantially equivalent to, or based on similar competencies to that required for, a current Australian or New Zealand qualification; or

(c) the applicant has passed a qualifying examination in the profession set by or for, or recognised by, the board.

(2) In deciding whether subsection (1)(b) is satisfied, the board may have regard to the following—

(a) the advice and recommendations of—

(i) an entity recognised by the board as competent to assess qualifications in the profession; or

(ii) an entity responsible for accrediting courses, or accrediting institutions to educate persons, for the profession;

(b) the attributes of the course leading to the applicant's qualification;

6 Section 61 (Imposition of conditions by board)

Example of 'attributes' of a course—

The course objectives and competencies.

(c) any other relevant issue.

(3) In this section—

"current Australian or New Zealand qualification" means an Australian or New Zealand qualification, mentioned in a regulation made under subsection (1)(a), that may be conferred or awarded as a result of the successful completion of a course offered, at the date of the applicant's application for general registration, by the educational institution mentioned in relation to the qualification.

Fitness to practise the profession

46.(1) In deciding whether an applicant for general registration is fit to practise the profession, the board may have regard to the following—

(a) the applicant's mental and physical health;

(b) the applicant's command of the English language;

(c) whether the applicant has been convicted of an indictable offence;

(d) whether the applicant has been convicted of an offence against the repealed Act, this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(e) whether the applicant has been convicted of an offence, relating to the practice of the profession, against a law applying, or that applied, in the State, the Commonwealth, another State or a foreign country (other than laws mentioned in paragraph (d)), including, for example an offence of that type against—

(i) the *Health Act 1937*; or

(ii) the *Fair Trading Act 1989*;

(f) if the applicant has been registered under this Act or the repealed Act or is, or has been, registered under a corresponding law and the registration was affected—

(i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) by its suspension or cancellation—the reason for its suspension or cancellation; or

(iii) in another way—the way it was affected and the reason for it being affected;

(g) if the qualification relied on by the applicant to obtain registration was conferred or awarded on a day (the **"qualification day"**) that is more than 3 years before the date of application, the nature, extent and period of any practice of the profession by the applicant since the qualification day;

(h) any other issue relevant to the applicant's ability to competently and safely practise the profession.

(2) For subsection (1)(g)—

(a) the passing of an examination mentioned in section 45(1)(c) is taken to be a qualification; and

(b) the day the examination was passed is taken to be the qualification day.

(3) The board may ask the commissioner of the police service for a written report about an applicant's criminal history.

(4) If asked by the board, the commissioner of the police service must give the board a written report about the criminal history of the applicant, including the criminal history in the commissioner's possession or to which the commissioner has access.

(5) In this section—

"criminal history", of an applicant, means the applicant's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

Training required for general registration

47.(1) An applicant for general registration has completed training in the practice of the profession if—

(a) the applicant has satisfactorily completed a prescribed training course; or

(b) the applicant has satisfactorily completed a training course that, in the board's reasonable opinion, is substantially equivalent to a prescribed training course; or

(c) the applicant has experience in the practice of the profession and, in the board's reasonable opinion, the skills and knowledge obtained from the experience are equivalent to the skills and knowledge obtained from satisfactory completion of the prescribed training course; or

(d) the applicant has experience in the practice of the profession and has completed part of the prescribed training course and, in the board's reasonable opinion, the skills and knowledge obtained from the experience and partial completion of the course are equivalent to the skills and knowledge obtained from satisfactory completion of the prescribed training course.

(2) In deciding whether a training course is substantially equivalent to a prescribed training course, the board may have regard to the following—

(a) the course objectives and competencies;

(b) the course outcomes;

(c) the subjects included in the course;

(d) the advice and recommendations of an entity recognised by the board as competent to assess practice in the profession;

(e) any other relevant issue.

(3) In this section—

"prescribed training course" means a training course prescribed under a regulation.

Practice required for general registration

48. An applicant for general registration has completed a period of practice in the profession if—

(a) the applicant has completed a period of practice in the profession (**"supervised practice"**) under the supervision of a registrant in a way that complies with the requirements prescribed under a regulation; or

(b) the applicant has postgraduate qualifications in pharmacy and has completed part of the supervised practice and, in the board's reasonable opinion, the skills and knowledge obtained from the qualifications and partial completion of the supervised practice are equivalent to the skills and knowledge obtained from completion of supervised practice; or

(c) the applicant has completed, in another State, a period of practice (**"interstate practice"**) that is, in the board's reasonable opinion, equivalent to completion of supervised practice; or

(d) the applicant has completed part of a period of interstate practice and part of the supervised practice and, in the board's reasonable opinion, the partial completion of the interstate practice and supervised practice are equivalent to completion of supervised practice; or

(e) the applicant has experience in the practice of the profession and, in the board's reasonable opinion, the skills and knowledge obtained from the experience are equivalent to the skills and knowledge obtained from completion of supervised practice; or

(f) the applicant has experience in the practice of the profession and has completed part of the supervised practice and, in the board's reasonable opinion, the skills and knowledge obtained from the experience and partial completion of supervised practice are equivalent to the skills and knowledge obtained from completion of supervised practice.

Experience in the practice of the profession

49. In deciding whether an applicant for general registration has skills and knowledge obtained from experience in the practice of the profession that are equivalent to the skills and knowledge obtained from satisfactory completion of the prescribed training course or supervised practice, the board may have regard to—

(a) the length of the period for which the applicant has practised the profession; and

(b) the nature, extent and recency of the applicant's practice of the profession; and

(c) the applicant's knowledge of Australian practices and requirements relating to the practice of the profession.

Subdivision 3—Inquiries into applications

Board's powers before deciding applications

50.(1) Before deciding the application, the board—

(a) may investigate the applicant; and

(b) may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application; and

(c) may, by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place; and

(d) may, by notice given to the applicant, require the applicant to undergo a health assessment within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) The purpose of an examination under subsection (1)(c) must be to assess the applicant's ability to competently and safely practise the profession.

(4) The purpose of an assessment under subsection (1)(d) must be to assess the applicant's mental and physical capacity to competently and safely practise the profession.

(5) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—

(a) does not comply with a requirement under subsection (1)(b); or

(b) does not undergo an examination under subsection (1)(c); or

(c) does not undergo an assessment under subsection (1)(d).

(6) A notice under subsection (1)(b), (c) or (d) must be given to the applicant within 60 days after the board receives the application.

(7) Also, a notice under subsection (1)(d) must state—

(a) the reason for the assessment; and

(b) the name and qualifications of the person appointed by the board to conduct the assessment; and

(c) the place where, and the day and time at which, the assessment is to be conducted.

Appointment of appropriately qualified person to conduct health assessment

51.(1) This section applies if the board believes it is necessary for the applicant to undergo a health assessment under section 50(1)(d).

(2) The board may appoint 1 or more appropriately qualified persons to conduct the assessment, in whole or part.

(3) At least 1 of the persons appointed to conduct the assessment must be a medical practitioner.

(4) Before appointing a person to conduct a health assessment, the board must be satisfied the person does not have a personal or professional connection with the applicant that may prejudice the way in which the person conducts the assessment.

(5) In this section—

"appropriately qualified", for a medical practitioner or other person conducting a health assessment, includes having the qualifications, experience, skills or knowledge appropriate to conduct the assessment.

Report about health assessment

52.(1) A person appointed under section 51 to conduct all or part of a health assessment of the applicant must prepare a report about the assessment (an **"assessment report"**).

(2) The assessment report must include—

(a) the person's findings as to the applicant's mental and physical capacity to competently and safely practise the profession; and

(b) if the person finds the applicant does not have the mental and physical capacity to practise the profession, the person's recommendations as to any conditions that could be imposed on the applicant's registration as a general registrant to overcome the incapacity.

(3) The person must give the assessment report to the board.

Use of assessment report

53.(1) An assessment report is not admissible in any proceedings, other than stated proceedings.

(2) A person can not be compelled to produce the report, or to give evidence relating to the report or its contents, in any proceedings, other than stated proceedings.

(3) Subsections (1) and (2) do not apply if the report is admitted or produced, or evidence relating to the report or its contents is given, with the consent of the person who prepared the report and the person to whom the report relates.

(4) In this section—

"assessment report" includes a copy of the report, or a part of the report or copy.

"proceedings under the *Health Practitioners (Professional Standards) Act 1999*" includes a health assessment of a registrant by a health assessment committee under that Act.

"stated proceedings" means—

(a) a review of conditions under division 7;[7] or

(b) an appeal started under part 6;[8] or

(c) proceedings under the *Health Practitioners (Professional*

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7 Division 7 (Reviewing conditions of general registrations)

8 Part 6 (Appeals)

Standards) Act 1999, not including proceedings for an offence against that Act.

Payment for health assessments and reports

54. A person who conducts a health assessment and prepares an assessment report for the board is entitled to be paid for his or her work by the board.

Subdivision 4—Decision on applications

Decision

55. The board must consider the application and decide to register, or refuse to register, the applicant as a general registrant.

Steps to be taken after application decided

56.(1) If the board decides to register the applicant as a general registrant, it must as soon as practicable issue a certificate of general registration to the applicant.

(2) If the board decides to refuse to register the applicant as a general registrant, it must as soon as practicable give the applicant an information notice about the decision.

Failure to decide applications

57.(1) Subject to subsections (2) and (3), if the board fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the board to refuse to register the applicant as a general registrant.

(2) Subsection (3) applies if the board has—

(a) under section 50(1)(b),[9] required the applicant to give the board further information or a document; or

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[9] Section 50 (Board's powers before deciding applications)

(b) under section 50(1)(c), required the applicant to undergo an examination; or

(c) under section 50(1)(d), required the applicant to undergo a health assessment.

(3) The board is taken to have decided to refuse to register the applicant as a general registrant if it fails to decide the application by the latest of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) This section does not apply if the applicant is registered as a provisional general registrant.[10]

(5) This section is subject to section 58.

Further consideration of applications

58.(1) This section applies if the board considers it needs further time to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.

Example of an application for general registration that may require the consideration of complex matters—

An application requiring the board to obtain and consider information about the applicant from a foreign regulatory authority.

(2) The board may at any time before the final consideration day give notice to the applicant that—

(a) because of the complexity of the matters that need to be considered in deciding the application, the board needs further time to decide the application; and

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10 If the applicant is registered as a provisional general registrant, section 71 states when the board is taken to have decided to refuse to register the applicant as a general registrant.

(b) the period within which the board must decide the application is extended to a day (the **“extended day”**) that is 60 days after the final consideration day.

(3) Also, the applicant and board may at any time before the final consideration day agree in writing on a day (the **“agreed extended day”**) by which the application is to be decided.

(4) The board is taken to have decided to refuse to register the applicant as a general registrant if it does not decide the application by—

(a) if subsection (2) applies—the extended day; or

(b) if subsection (3) applies—the agreed extended day; or

(c) if both subsections (2) and (3) apply—the later of the extended day or agreed extended day.

(5) Subsection (4) does not apply if the applicant is registered as a provisional general registrant.[11]

(6) In this section—

“final consideration day” means the latest of the following days—

(a) the day that is 60 days after receipt of the application;

(b) if the board has, under section 50(1)(b), required the applicant to give the board further information or a document—the day that is 60 days after the board receives the further information or document;

(c) if the board has, under section 50(1)(c), required the applicant to undergo an examination—the day that is 60 days after the board receives the results of the examination;

(d) if the board has, under section 50(1)(d), required the applicant to undergo a health assessment—the day that is 60 days after the board receives the assessment report.

11 If the applicant is registered as a provisional general registrant, section 71 states when the board is taken to have decided to refuse to register the applicant as a general registrant.

Subdivision 5—Information in certificates of general registration

Forms of certificates of general registration

59.(1) A certificate of general registration must be in the approved form.

(2) The approved form must provide for the inclusion of the following—

(a) the registrant’s name;

(b) the period of the registration;

(c) any conditions of registration.

Subdivision 6—Period of general registration

Period

60.(1) The period of registration that is to apply to general registrants is the period (the **“general registration period”**), not more than 3 years, prescribed under a regulation.

(2) If the board decides to register an applicant for general registration as a general registrant during a general registration period, the registration remains in force for the period—

(a) commencing on the day when the board makes the decision; and

(b) ending on the last day of the general registration period.

Subdivision 7—Conditions of general registration

Imposition of conditions by board

61.(1) The board may decide to register an applicant for general registration as a general registrant on conditions the board considers necessary or desirable for the applicant to competently and safely practise the profession.

Examples of conditions of general registration—

1. A condition that a general registrant only practise the profession under the supervision of another general registrant.

2. A condition prohibiting a general registrant engaging in stated procedures related to the practice of the profession.

(2) If the board decides to register an applicant for general registration as a general registrant on conditions, it must as soon as practicable—

(a) also decide the review period applying to the conditions;[12] and

(b) give the applicant an information notice about the decisions.

(3) If the board decides to register an applicant for general registration as a general registrant on conditions because of the applicant's mental and physical health, it must also decide whether details of the conditions must be recorded in the register for the period for which the conditions are in force.

(4) The board must decide not to record details of the conditions mentioned in subsection (3) in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Contravention of conditions

62. A general registrant must not contravene a condition of the registration imposed under this Act.

Maximum penalty—100 penalty units.

Division 3—Provisional general registration

Meaning of "authorised person" for div 3

63.(1) In this division—

"authorised person" means any of the following persons who are authorised by the board to decide to register a person as a provisional general registrant—

(a) the executive officer;

(b) a member;

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12 The conditions may be reviewed under division 7 (Reviewing conditions of general registrations).

(c) a member of the office's staff.

(2) An authority mentioned in subsection (1) may be limited by reference to specified conditions, exceptions or factors.

Provisional general registration of a person

64.(1) Subsection (2) applies if an authorised person reasonably considers—

(a) an applicant for general registration is eligible for the registration without conditions; and

(b) because of the period before the board is likely to consider the application in the ordinary course of its business, it is not reasonable for the applicant to have to wait for the board to consider the application.

(2) The authorised person may decide to register the applicant as a provisional general registrant.

(3) Subsection (4) applies if an authorised person or the board—

(a) reasonably considers, subject to an applicant for general registration giving the board further evidence of the applicant's relevant qualification, the applicant is eligible for the registration without conditions; or

(b) reasonably considers—

(i) an applicant for general registration would be eligible for general registration without conditions, other than for the fact that the relevant qualification relied on by the applicant has not been conferred on, or awarded to, the applicant; and

(ii) the applicant is entitled to have the relevant qualification conferred on, or awarded to, him or her.

(4) The authorised person or board may decide to register the applicant as a provisional general registrant.

(5) If the authorised person or board decides to register the applicant as a provisional general registrant, the authorised person or board must as soon as practicable issue a certificate of provisional general registration to the applicant.

(6) An authorised person or the board may not decide to register a person as a provisional general registrant on conditions.

Confirmation or cancellation of provisional general registration

65.(1) If an authorised person decides to register an applicant for general registration as a provisional general registrant, the authorised person must as soon as practicable report to the board about the basis for the authorised person's decision.

(2) The board must consider the report and decide whether to confirm or cancel the provisional general registration.

(3) In making its decision, the board must consider whether the authorised person should have decided to register the applicant as a provisional general registrant.

(4) If the board decides to cancel the provisional general registration, it must as soon as practicable give the applicant notice of its decision.

Procedure after cancellation of provisional general registration

66.(1) This section applies if the board decides, under section 65, to cancel a person's provisional general registration.

(2) The notice of cancellation must include the reason for the decision.

(3) The decision takes effect on the day the notice is given to the person.

(4) The person must return the certificate of provisional general registration to the board within 14 days after receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) Even though the board decides to cancel a person's provisional general registration, it must still consider the person's application for general registration.

Form of certificate of provisional general registration

67.(1) A certificate of provisional general registration must be in the approved form.

(2) The approved form must provide for the inclusion of the following—

(a) the registrant's name;

(b) the period of the registration.

Period

68. The provisional general registration of a person remains in force for the period, not more than 6 months, decided by the authorised person or board when deciding to register the person as a provisional general registrant.

Board decides to register provisional general registrant as a general registrant

69.(1) This section applies if—

(a) a person is a provisional general registrant; and

(b) the board decides to register the person as a general registrant.

(2) The provisional general registration is cancelled when the person receives a certificate of general registration under section 56(1).[13]

(3) The general registration is taken to have started from the day the person was registered as a provisional general registrant.

Board decides to refuse to register provisional general registrant as a general registrant

70.(1) This section applies if—

(a) a person is a provisional general registrant; and

(b) the board decides to refuse to register the person as a general registrant.

(2) The provisional general registration is cancelled when an information notice about the decision is given to the person under section 56(2).

(3) The person must return the certificate of provisional general

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13 Section 56 (Steps to be taken after application decided)

registration to the board within 14 days after receiving the information notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Deemed refusal by board to register provisional general registrant as a general registrant

71.(1) This section applies if—

(a) a person is a provisional general registrant; and

(b) other than for section 57(4) or 58(5),[14] the board would have been taken to have decided to refuse to register the person as a general registrant.

(2) The board is taken to have decided to refuse to register the person as a general registrant on the expiry of the provisional general registration.

Division 4—Renewal of general registrations

Subdivision 1—Preliminary

Meaning of "recency of practice requirements"

72.(1) "Recency of practice requirements" are requirements, prescribed under a regulation, that if satisfied demonstrate that an applicant for renewal of a general registration has maintained an adequate connection with the profession.

(2) The requirements may include requirements about the following—

(a) the nature, extent and period of practice of the profession by the applicant;

(b) the nature and extent of any continuing professional education undertaken by the applicant;

(c) the nature and extent of any research, study or teaching, relating to

14 Section 57 (Failure to decide applications) or 58 (Further consideration of applications)

the profession, undertaken by the applicant;

(d) the nature and extent of any administrative work, relating to the profession, performed by the applicant.

Subdivision 2—Applications for renewal of general registrations

Notification of imminent expiry of registration

73. The board must give a general registrant notice of the imminent expiry of the registration at least 60 days before the expiry.

Procedural requirements for applications

74.(1) A general registrant may apply to the board for the renewal of the registration.

(2) The application must be made within the period—

(a) starting—

(i) 60 days before the expiry of the registration; or

(ii) on an earlier day, if any, stated in the notice given to the registrant under section 73; and

(b) ending immediately before the expiry.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) the registration fee; and

(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.

(4) Information in the application must, if the approved form requires, be verified by a statutory declaration.

(5) The approved form must require the applicant to state the following—

(a) whether the applicant suffers from any ongoing medical condition, of which the applicant is aware, that the applicant knows or ought reasonably to know adversely affects the applicant's ability to competently and safely practise the profession;[15]

(b) if there are recency of practice requirements relevant to the applicant, details of the extent to which the applicant has satisfied the requirements.

General registration taken to be in force while application is considered

75.(1) If an application is made under section 74, the applicant's general registration is taken to continue in force from the day it would, apart from this section, have expired until—

(a) if the board decides to renew the applicant's general registration—the day a new certificate of general registration is issued to the applicant under section 79(1); or

(b) if the board decides to refuse to renew the applicant's general registration—the day an information notice about the decision is given to the applicant under section 79(2); or

(c) if the application is taken to have been withdrawn under section 76(4)—the day it is taken to have been withdrawn.

(2) Subsection (1) does not apply if the registration is earlier cancelled under this Act or suspended or cancelled under the *Health Practitioners (Professional Standards) Act 1999.*

Subdivision 3—Decision on applications

Inquiries into applications

76.(1) Before deciding the application, the board—

(a) may investigate the applicant; and

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15 If this information indicates to the board that the applicant may be an impaired registrant under the *Health Practitioners (Professional Standards) Act 1999,* the applicant may be dealt with under that Act.

(b) may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application; and

(c) may, if the board is not satisfied the applicant has satisfied recency of practice requirements, by notice given to the applicant, require the applicant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) The purpose of an examination under subsection (1)(c) must be to assess any effect the applicant's non-satisfaction of the requirements has on the applicant's ability to competently and safely practise the profession.

(4) The applicant is taken to have withdrawn the application if, within the stated time, the applicant—

(a) does not comply with a requirement under subsection (1)(b); or

(b) does not undergo an examination under subsection (1)(c).

Decision

77.(1) The board must consider the application and decide to renew, or refuse to renew, the applicant's general registration.

(2) In making its decision, the board must have regard only to the extent, if any, to which the applicant has satisfied recency of practice requirements.[16]

(3) If there are no recency of practice requirements relevant to the applicant, the board must decide to renew the applicant's general registration.

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16 Under section 78(2), the board may decide to renew the registration on recency of practice conditions if the board is not satisfied the applicant has satisfied recency of practice requirements.

Recency of practice requirements are not satisfied

78.(1) This section applies if the board is not satisfied the applicant has satisfied recency of practice requirements.

(2) The board may decide to renew the applicant's general registration on conditions (**"recency of practice conditions"**) the board considers will sufficiently address the extent to which the applicant has not satisfied the requirements.

(3) Before deciding to renew the registration on recency of practice conditions, the board must—

(a) give notice to the applicant—

(i) of the details of the proposed conditions; and

(ii) of the reason for the proposed imposition of the conditions; and

(iii) that the applicant may make a written submission to the board about the proposed conditions within a reasonable time of at least 14 days stated in the notice; and

(b) have regard to any written submission made to the board by the applicant before the stated day.

(4) If the board decides to renew the registration on recency of practice conditions, it must as soon as practicable—

(a) also decide the review period applying to the conditions;[17] and

(b) give the applicant an information notice about the decisions.

(5) The imposition of the conditions takes effect on the later of the following—

(a) when the information notice is given to the applicant;

(b) immediately after the day the registration would have expired, other than for its renewal.

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17 The conditions may be reviewed under division 7 (Reviewing conditions of general registrations).

Steps to be taken after application decided

79.(1) If the board decides to renew the applicant's general registration, it must as soon as practicable issue a new certificate of general registration to the applicant.

(2) If the board decides to refuse to renew the applicant's general registration, it must as soon as practicable give the applicant an information notice about the decision.

(3) Without affecting section 78(2), if the board decides to renew the applicant's general registration, the renewed general registration is subject to the conditions attaching to the registration immediately before the decision takes effect.[18]

Division 5—Restoration of general registrations

Application of div 4, sdivs 1 and 3

80. For restoring a general registration, division 4, subdivisions 1 and 3, other than sections 78(5) and 79(3),[19] apply as if—

(a) an application for renewal of a general registration were an application for restoration of a general registration; and

(b) an applicant for renewal of a general registration were an applicant for restoration of a general registration; and

(c) a renewal of a general registration were a restoration of a general registration.

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18 The conditions may include conditions imposed under the *Health Practitioners (Professional Standards) Act 1999.*

19 Division 4 (Renewal of general registrations), subdivisions 1 (Preliminary) and 3 (Decision on applications), sections 78 (Recency of practice requirements are not satisfied) and 79 (Steps to be taken after application decided)

When an application for restoration of a general registration may be made

81. If a person's general registration has expired, the person may apply to the board for restoration of the registration within 3 months after the expiry.

Procedural requirements for applications

82.(1) The application must—

(a) be in the approved form; and

(b) be accompanied by—

(i) the restoration fee prescribed under a regulation (the **"restoration fee"**); and

(ii) any documents, identified in the approved form, the board reasonably requires to decide the application.

(2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

(3) The approved form must require the applicant to state the following—

(a) whether the applicant suffers from any ongoing medical condition, of which the applicant is aware, that the applicant knows or ought reasonably to know adversely affects the applicant's ability to competently and safely practise the profession;[20]

(b) if there are recency of practice requirements relevant to the applicant, details of the extent to which the applicant has satisfied the requirements.

Period of restored registration

83. If the board decides to restore the applicant's general registration during a general registration period, the registration remains in force for the period—

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20 If this information indicates to the board that the applicant may be an impaired registrant under the *Health Practitioners (Professional Standards) Act 1999*, the applicant may be dealt with under that Act.

(a) commencing on the day when the board makes the decision; and

(b) ending on the last day of the general registration period.

Conditions of expired registration

84. Without affecting section 78(2), as applied by section 80, if the board decides to restore the applicant's general registration, the registration is subject to the conditions attaching to the registration immediately before its expiry.

When recency of practice conditions take effect

85. If the board decides to restore the applicant's general registration on recency of practice conditions, the imposition of the conditions takes effect when the information notice about the decision is given by the board to the applicant.

Division 6—Cancellation of general registrations

Ground for cancellation

86. A person's general registration may be cancelled, under this division, on the ground that the person was registered because of a materially false or misleading representation or declaration.

Show cause notice

87.(1) If the board believes the ground exists to cancel a general registration, the board must before taking action to cancel the registration give the registrant a notice (a **"show cause notice"**).

(2) The show cause notice must—

(a) state the board proposes to cancel the registration; and

(b) state the ground for the proposed cancellation; and

(c) outline the facts and circumstances forming the basis for the ground; and

(d) invite the registrant to show within a stated period (the **“show cause period”**) why the registration should not be cancelled.

(3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the registrant.

Representations about show cause notices

88.(1) The registrant may make written representations about the show cause notice to the board in the show cause period.

(2) The board must consider all written representations (the **“accepted representations”**) made under subsection (1).

Ending show cause process without further action

89.(1) This section applies if, after considering the accepted representations for the show cause notice, the board no longer believes the ground exists to cancel the registration.

(2) The board must not take any further action about the show cause notice.

(3) The board must also as soon as practicable after coming to the belief give notice to the registrant that no further action is to be taken about the show cause notice.

Cancellation

90.(1) This section applies if, after considering the accepted representations for the show cause notice, the board—

(a) still believes the ground exists to cancel the registration; and

(b) believes cancellation of the registration is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The board may decide to cancel the registration.

(4) If the board decides to cancel the registration, it must as soon as practicable give the registrant an information notice about the decision.

(5) The decision takes effect on the day the information notice is given to the registrant.

Return of cancelled certificate of general registration to board

91.(1) This section applies if the board decides to cancel a general registration and gives an information notice for the decision to the registrant.

(2) The registrant must return the certificate of general registration to the board within 14 days after receiving the information notice, unless the registrant has a reasonable excuse.

Maximum penalty for subsection (2)—10 penalty units.

Division 7—Reviewing conditions of general registrations

Subdivision 1—Review of conditions imposed by the board or District Court

Review of conditions

92. Conditions imposed on a general registration under this Act may be reviewed under this division.

How registrant may start a review

93.(1) The registrant to whom the conditions relate may apply to the board for a review of the conditions.

(2) However, the application must not be made—

(a) during the review period applying to the conditions; or

(b) while an appeal to the District Court about the decision to impose the conditions is pending.

(3) The application must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(4) The approved form must require the registrant to state—

(a) that the registrant believes the conditions are no longer appropriate; and

(b) the reason for the registrant's belief.

(5) The board must consider the application and make a decision under section 98.

Review of conditions during review period

94.(1) This section applies if, during the review period applying to the conditions, the board reasonably believes the conditions may no longer be appropriate.

(2) The board may, with the written agreement of the registrant to whom the conditions relate, review the conditions.

Board's powers before making decision

95.(1) Before making its decision under section 98, the board—

(a) may investigate the registrant; and

(b) may, by notice given to the registrant, require the registrant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to make the decision; and

(c) may, by notice given to the registrant, require the registrant to undergo a written, oral or practical examination within a reasonable time of at least 30 days stated in the notice, and at a reasonable place; and

(d) may, by notice given to the registrant, require the registrant to undergo a health assessment within a reasonable time of at least 30 days stated in the notice, and at a reasonable place.

(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.

(3) Subject to section 98(2), the purpose of an examination under subsection (1)(c) must be to assess the registrant's ability to competently and safely practise the profession.

(4) Subject to section 98(2), the purpose of an assessment under subsection (1)(d) must be to assess the registrant's mental and physical capacity to competently and safely practise the profession.

(5) Also, a notice under subsection (1)(d) must state—

(a) the reason for the assessment; and

(b) the name and qualifications of the person appointed by the board to conduct the assessment; and

(c) the place where, and the day and time at which, the assessment is to be conducted.

Application of ss 51–54

96.(1) This section applies if the board believes it is necessary for the registrant to undergo a health assessment under section 95(1)(d).

(2) Sections 51 to 54[21] apply as if—

(a) an applicant for general registration were the registrant; and

(b) the reference in section 51(1) to section 50(1)(d) were a reference to section 95(1)(d).

Deemed withdrawal of application etc.

97.(1) Subsections (2) and (3) apply if the conditions are being reviewed because of an application made by the registrant under section 93.

(2) The registrant is taken to have withdrawn the application if, within the stated time, the registrant—

(a) does not comply with a requirement under section 95(1)(b); or

(b) does not undergo an examination under section 95(1)(c); or

(c) does not undergo an assessment under section 95(1)(d).

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21 Sections 51 (Appointment of appropriately qualified person to conduct health assessment), 52 (Report about health assessment), 53 (Use of assessment report) and 54 (Payment for health assessments and reports)

(3) A notice under section 95(1)(b), (c) or (d) must be given to the registrant within 60 days after the board receives the application.

(4) Subsections (5) and (6) apply if the conditions are being reviewed under section 94.

(5) The board is taken to have decided to confirm the conditions if, within the stated time, the registrant—

(a) does not comply with a requirement under section 95(1)(b); or

(b) does not undergo an examination under section 95(1)(c); or

(c) does not undergo an assessment under section 95(1)(d).

(6) A notice under section 95(1)(b), (c) or (d) must be given to the registrant within 60 days after the board agrees with the registrant to review the conditions.

Decision

98.(1) After reviewing the conditions, the board must decide—

(a) to confirm the conditions; or

(b) to remove the conditions; or

(c) to change the conditions.

(2) In making its decision, the board must consider whether the conditions remain necessary or desirable for the registrant to competently and safely practise the profession.

(3) If the board decides to confirm or change the conditions, the conditions may only be confirmed or changed for the reasons the conditions were initially imposed.

(4) If the board decides to confirm or change the conditions, it must as soon as practicable—

(a) also decide the review period applying to the confirmed or changed conditions; and

(b) give the registrant an information notice about the decisions.

(5) If the board decides to remove the conditions, it must as soon as practicable give the registrant notice of the decision.

When decision takes effect

99.(1) If the board decides to confirm the conditions, the decision takes effect when it is made.

(2) If the board decides to change the conditions, the change takes effect when an information notice about the decision is given to the registrant under section 98(4)(b) and does not depend on the certificate of general registration being amended to record the change or a replacement certificate of general registration being issued.

(3) If the board decides to remove the conditions, the removal takes effect when notice of the decision is given to the registrant under section 98(5) and does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Failure by board to make decision on application

100.(1) Subject to subsections (2) and (3), if the board fails to decide an application under section 93[22] within 60 days after its receipt, the failure is taken to be a decision by the board to remove the conditions.

(2) Subsection (3) applies if the board has—

(a) under section 95(1)(b),[23] required the applicant to give the board further information or a document; or

(b) under section 95(1)(c), required the applicant to undergo an examination; or

(c) under section 95(1)(d), required the applicant to undergo a health assessment.

(3) The board is taken to have decided to remove the conditions if the board fails to decide the application by the latest of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the

22 Section 93 (How registrant may start a review)

23 Section 95 (Board's powers before making decision)

examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) The removal of the conditions under subsection (1) or (3) does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

Failure by board to make decision on review agreed to under s 94

101.(1) Subject to subsections (2) and (3), if the board fails to make a decision on a review agreed to under section 94[24] within 60 days after the agreement, the failure is taken to be a decision by the board to remove the conditions.

(2) Subsection (3) applies if the board has—

(a) under section 95(1)(b), required the registrant to give the board further information or a document; or

(b) under section 95(1)(c), required the registrant to undergo an examination; or

(c) under section 95(1)(d), required the registrant to undergo a health assessment.

(3) The board is taken to have decided to remove the conditions if the board fails to make a decision on the review by the latest of the following days—

(a) the day that is 60 days after the board receives the further information or document;

(b) the day that is 60 days after the board receives the results of the examination;

(c) the day that is 60 days after the board receives the assessment report.

(4) The removal of the conditions under subsection (1) or (3) does not depend on the certificate of general registration being amended to record the removal or a replacement certificate of general registration being issued.

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24 Section 94 (Review of conditions during review period)

Further decision required if certain conditions changed

102.(1) This section applies if the conditions were imposed because of the registrant's mental and physical health.

(2) If the board decides to change the conditions, it must also decide whether details of the changed conditions must be recorded in the register for the period for which the conditions are in force.

(3) The board must decide not to record details of the changed conditions in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Subdivision 2—Recording change, or removal, of conditions

Amendment of, or replacing, certificates of general registration

103.(1) This section applies if—

(a) a general registrant receives an information notice, under section 98(4)(b), about decisions relating to a change of the conditions of the registration; or

(b) a general registrant receives a notice, under section 98(5), about a decision to remove the conditions of the registration; or

(c) the board is taken, under section 100 or 101, to have decided to remove the conditions of a general registration.

(2) The registrant must return the certificate of general registration to the board—

(a) if subsection (1)(a) or (b) applies—within 14 days after receiving the notice, unless the registrant has a reasonable excuse; or

(b) if subsection (1)(c) applies—within 14 days after the day the registrant actually becomes aware of the removal.

Maximum penalty—10 penalty units.

(3) On receiving the certificate, the board must—

(a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or

(b) if the board does not consider it practicable to amend the certificate, issue another certificate of general registration to the registrant to replace the certificate returned to the board.

Division 8—Special purpose registrations

Subdivision 1—Applications for special purpose registration

Undertaking of special activities relating to the profession

104. A person may obtain special purpose registration to undertake 1 or more of the following activities (the **"special activities"**) relating to the profession—

(a) study or train at postgraduate level;

(b) teach;

(c) engage in research;

(d) give clinical demonstrations.

Application of divs 2 and 3

105.(1) For a person being registered as a special purpose registrant, division 2, other than sections 44 to 46 and 60 to 62, and division 3[25] apply as if—

(a) an application for general registration were an application for special purpose registration; and

(b) an applicant for general registration were an applicant for special purpose registration; and

(c) a general registration were a special purpose registration; and

(d) a general registrant were a special purpose registrant; and

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[25] Division 2 (Applications for general registration), sections 44 (Eligibility), 45 (When applicant is qualified for general registration), 46 (Fitness to practise the profession), 60 (Period), 61 (Imposition of conditions by board) and 62 (Contravention of conditions) and division 3 (Provisional general registration)

(e) a certificate of general registration were a certificate of special purpose registration; and

(f) a provisional general registrant were a provisional special purpose registrant; and

(g) a provisional general registration were a provisional special purpose registration; and

(h) a certificate of provisional general registration were a certificate of provisional special purpose registration.

(2) The approved form for a certificate of special purpose registration, or provisional special purpose registration, must also provide for the inclusion of details of the special activity for which the registrant is registered.

Eligibility

106. An applicant for special purpose registration is eligible for special purpose registration if the applicant—

(a) has a qualification required for special purpose registration; and

(b) is a suitable person to be a special purpose registrant.

Qualifications for special purpose registration

107.(1) An applicant for special purpose registration has a qualification required for special purpose registration if the applicant is the holder of a qualification in the profession recognised by the board.

(2) In deciding whether to recognise the qualification, the board may have regard to the following—

(a) whether the course leading to the qualification has been accredited by an entity responsible for accrediting courses for the profession;

(b) whether the educational institution conferring or awarding the qualification has been accredited by an entity responsible for accrediting institutions to educate persons for the profession;

(c) the advice and recommendations of an entity recognised by the board as competent to assess qualifications in the profession.

Suitability to be a special purpose registrant

108. In deciding whether an applicant for special purpose registration is a suitable person to be a special purpose registrant, the board may have regard to the following—

(a) whether the applicant has been convicted of an indictable offence;

(b) whether the applicant has been convicted of an offence against the repealed Act, this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(c) if the applicant has been registered under this Act or the repealed Act or is, or has been, registered under a corresponding law and the registration was affected—

(i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or

(ii) by its suspension or cancellation—the reason for its suspension or cancellation; or

(iii) in another way—the way it was affected and the reason for it being affected;

(d) any other issue relevant to the applicant's ability to undertake the special activity the subject of the application.

Period of special purpose registration

109. If the board decides to register the applicant as a special purpose registrant, the registration remains in force for the period, not more than 1 year, decided by the board when deciding to register the applicant as a special purpose registrant.

Imposition of conditions by board

110.(1) The board may decide to register the applicant as a special purpose registrant on conditions the board considers necessary or desirable for the applicant to competently and safely undertake the special activity the subject of the application.

(2) If the board decides to register the applicant as a special purpose registrant on conditions, it must as soon as practicable give the applicant an information notice about the decision.

Contravention of conditions

111. A special purpose registrant must not contravene a condition of the registration imposed under this Act.

Maximum penalty—100 penalty units.

Subdivision 2—Renewal of special purpose registrations

Application of div 4, sdivs 2 and 3

112. For renewing a special purpose registration, division 4, subdivisions 2 and 3, other than sections 74(5)(a) and 79(3)[26] and the provisions to the extent to which they relate to recency of practice requirements, apply as if—

(a) an application for the renewal of a general registration were an application for the renewal of a special purpose registration; and

(b) an applicant for the renewal of a general registration were an applicant for the renewal of a special purpose registration; and

(c) an applicant's general registration were an applicant's special purpose registration; and

(d) a general registrant were a special purpose registrant; and

(e) a certificate of general registration were a certificate of special purpose registration.

[26] Division 4 (Renewal of general registrations), subdivisions 2 (Applications for renewal of general registrations) and 3 (Decision on applications), sections 74 (Procedural requirements for applications) and 79 (Steps to be taken after application decided)

Matters that may be considered in deciding whether to renew special purpose registrations

113. In deciding whether to renew a special purpose registration, the board may have regard to the matters to which the board may have regard in deciding whether a proposed special purpose registrant is a suitable person to be a special purpose registrant.[27]

Imposition of conditions by board

114.(1) The board may decide to renew a special purpose registration on conditions the board considers necessary or desirable for the registrant to competently and safely undertake the special activity the subject of the registration.

(2) If the board decides to renew a special purpose registration on conditions, it must as soon as practicable give the registrant an information notice about the decision.

(3) To remove doubt, it is declared that any conditions attaching to the registration immediately before its renewal do not continue to apply to the registration on its renewal.

Period of renewed special purpose registration

115. If the board decides to renew a special purpose registration, the registration remains in force for the period, not more than 1 year, decided by the board when deciding to renew the registration.

Subdivision 3—Cancellation of special purpose registrations

Application of div 6

116. For cancelling a special purpose registration, division 6, other than

[27] See section 108 (Suitability to be a special purpose registrant) for a list of the matters.

section 86, applies as if[28]—

(a) a general registration were a special purpose registration; and

(b) a certificate of general registration were a certificate of special purpose registration.

Grounds for cancellation

117. Each of the following is a ground for cancelling a special purpose registration—

(a) the registrant has practised the profession other than for the special activity for which the registrant is registered;

(b) the registrant has been convicted of an indictable offence;

(c) the registrant has been convicted of an offence against this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;

(d) the registrant has contravened a condition of the registration;

(e) the registrant was registered because of a materially false or misleading representation or declaration.

Subdivision 4—Removal of conditions

Removal

118.(1) This section applies if the board reasonably believes the conditions imposed on a special purpose registration under this Act are no longer appropriate.

(2) The board must decide to remove the conditions.

(3) The board must give the registrant notice of the decision as soon as practicable after it is made.

(4) The registrant must return the certificate of special purpose

[28] Division 6 (Cancellation of general registrations)
Section 86 (Ground for cancellation)

registration to the board within 14 days after receiving the notice, unless the registrant has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) On receiving the certificate, the board must—

(a) amend the certificate in an appropriate way and return the amended certificate to the registrant; or

(b) if the board does not consider it practicable to amend the certificate—issue another certificate of special purpose registration to the registrant to replace the certificate returned to the board.

(6) The removal takes effect when notice of the decision is given to the registrant and does not depend on the certificate of special purpose registration being amended to record the removal or a replacement certificate of special purpose registration being issued.

Division 9—General provisions about registrations

Person is taken to be registered under this part

119.(1) This section applies if, under this Act, an entity decides to—

(a) register a person; or

(b) restore a person's registration.

(2) The person is taken to be registered under this part.

Surrender of registrations

120.(1) A registrant may surrender the registration by notice given to the board.

(2) The surrender takes effect—

(a) on the day the notice is given to the board; or

(b) if a later day of effect is stated in the notice, on the later day.

(3) The registrant must return the certificate of registration to the board within 14 days after the day the surrender takes effect, unless the registrant has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

Replacement of certificates of registration

121.(1) A registrant may apply to the board for the replacement of the certificate of registration if it has been lost, stolen, destroyed or damaged.

(2) The board must consider the application and decide to grant, or refuse to grant, the application.

(3) The board must decide to grant the application if it is satisfied the certificate has been lost, stolen or destroyed, or damaged in a way to require its replacement.

(4) If the board decides to grant the application, it must on payment of the fee prescribed under a regulation—

(a) replace the lost, stolen, destroyed or damaged certificate with another certificate of registration; and

(b) give the replacement certificate of registration to the applicant.

(5) If the board decides to refuse to grant the application, it must as soon as practicable give the applicant an information notice about the decision.

Certified copy of certificates of registration

122. A registrant may, on payment of the fee prescribed under a regulation, obtain from the board a certified copy of the certificate of registration.

Notification of change in circumstances

123. A registrant must, within 21 days after the happening of a change in the registrant's circumstances prescribed under a regulation, advise the board of the change.

Maximum penalty—10 penalty units.

Notification of certain events to interstate regulatory authorities and other entities

124.(1) This section applies if—

(a) a person's general registration or special purpose registration is cancelled under this Act; or

(b) conditions are imposed, under this Act, on a person's general registration or special purpose registration; or

(c) conditions on a person's general registration or special purpose registration are removed under this Act.

(2) As soon as practicable after an event mentioned in subsection (1) happens, the board must give notice about the event to each interstate regulatory authority with which the board is aware the person is registered.

(3) Also, the board may give notice about the event to any of the following—

(a) the chief executive;

(b) other State regulatory authorities;

(c) foreign regulatory authorities;

(d) professional colleges of which the person is eligible to be a member;

(e) professional associations of which the person is eligible to be a member;

(f) an employer of the person;

(g) the Health Insurance Commission;

(h) the Health Rights Commissioner;

(i) the Minister;

(j) another entity having a connection with the person's practice as a general or special purpose registrant.

(4) However, the board must not give a notice about the event to an entity under subsection (3) unless the board reasonably believes—

(a) the entity needs to know about the event; and

(b) giving the entity notice about the event will assist in achieving the objects of this Act.

(5) A notice under this section may include the information the board considers appropriate in the circumstances.

(6) In this section—

“impose”, a condition, does not include confirm the condition.

“State regulatory authorities” means boards established under the health practitioner registration Acts.

PART 4—OBLIGATIONS OF REGISTRANTS AND OTHER PERSONS

Division 1—Restricted titles and holding out

Taking of restricted titles etc.

125.(1) A person who is not a registrant must not take or use a restricted title.

Maximum penalty—1 000 penalty units.

Example of an individual taking or using a restricted title—

AB describes himself or herself as ‘AB, pharmacist’.

Examples of a corporation taking or using a restricted title—

1. ABC Pty Ltd describes itself as ‘ABC Pty Ltd, pharmacists’.
2. A corporation having a restricted title as part of its name.

(2) Subsection (1) does not apply if—

(a) the title is taken or used as part of a business name for a business providing professional services; and

(b) in the carrying on of the business by the person, a registrant provides professional services.

(3) Also, subsection (1) does not apply if—

(a) the person is undertaking study or training in the practice of the profession to obtain a qualification for registration; and

(b) the person takes or uses the title, in the course of the study or training, in conjunction with words that indicate the person is a student or trainee in the profession.

(4) A person (the **“first person”**) must not, in relation to another person who the first person knows or ought reasonably to know is not a registrant, use a restricted title.

Maximum penalty—1 000 penalty units.

(5) Subsection (4) does not apply if—

(a) the other person is undertaking study or training in the practice of the profession to obtain a qualification for registration; and

(b) the first person uses the title in relation to the other person, in the course of the study or training, in conjunction with words that indicate the other person is a student or trainee in the profession.

(6) A person who is not a registrant must not take or use a title (other than a restricted title), name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—

(a) the person is a pharmacist; or

(b) the person is authorised or qualified to practise the profession.

Maximum penalty—500 penalty units.

(7) A person (the **“first person”**) must not, in relation to another person who the first person knows or ought reasonably to know is not a registrant, use a title (other than a restricted title), name, initial, symbol, word or description that, having regard to the circumstances in which it is used, indicates or could be reasonably understood to indicate—

(a) the other person is a pharmacist; or

(b) the other person is authorised or qualified to practise the profession.

Maximum penalty—500 penalty units.

(8) However, a person does not commit an offence against this section if the person takes or uses a restricted title other than for the purpose of providing a health service.

Example for subsection (8)—

A person using the title ‘industrial chemist’, and not providing a health service, would not commit an offence against this section.

Claims by persons as to registration

126. A person who is not a registrant must not—

(a) claim, or hold himself or herself out, to be registered under this Act; or

(b) allow himself or herself to be held out as being registered under this Act; or

(c) claim, or hold himself or herself out, to be eligible to be registered under this Act.

Maximum penalty—1 000 penalty units.

Claims by persons as to other persons’ registration

127. A person must not hold out another person as being registered under this Act if the person knows, or ought reasonably to know, the other person is not registered under this Act.

Maximum penalty—1 000 penalty units.

Example—

A person carrying on a business providing professional services must not hold out that an employee of the person is registered under this Act if the person knows the employee is not registered under this Act.

Restrictions on special purpose registrants, provisional general registrants and provisional special purpose registrants

128.(1) A person who is a special purpose registrant or provisional special purpose registrant must not—

(a) claim, or hold himself or herself out, to be a general registrant or provisional general registrant; or

(b) allow himself or herself to be held out as being a general registrant or provisional general registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a general registrant or provisional general registrant.

Maximum penalty—100 penalty units.

(2) A person who is a provisional general registrant must not—

(a) claim, or hold himself or herself out, to be a general registrant; or

(b) allow himself or herself to be held out as being a general registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a general registrant.

Maximum penalty—100 penalty units.

(3) A person who is a provisional special purpose registrant must not—

(a) claim, or hold himself or herself out, to be a special purpose registrant; or

(b) allow himself or herself to be held out as being a special purpose registrant; or

(c) claim, or hold himself or herself out, to be eligible to be a special purpose registrant.

Maximum penalty—100 penalty units.

Restrictions on registrants registered on conditions

129. A registrant who is registered on conditions must not—

(a) claim, or hold himself or herself out, to be registered without the conditions or any conditions; or

(b) allow himself or herself to be held out as being registered without the conditions or any conditions.

Maximum penalty—100 penalty units.

Division 2—Notification of business names and other details

Notification of business names etc.

130.(1) A registrant must, before carrying on a business providing professional services under a business name other than the registrant's own name, give the board notice of the business name.

Maximum penalty—10 penalty units.

(2) Subsection (1) applies whether or not the business name is registered under the *Business Names Act 1962*.

(3) A corporation must, before carrying on a business providing professional services, give the board notice of—

(a) the business name of the business (whether or not the name is registered under the *Business Names Act 1962*); and

(b) the name and principal address of the corporation; and

(c) the names and addresses of—

(i) if the corporation is a corporation under the Corporations Law—the directors of the corporation; or

(ii) if the corporation is not a corporation under the Corporations Law—the members of the governing body of the corporation.

Maximum penalty for subsection (3)—50 penalty units.

Notification of change in business names etc.

131.(1) This section applies if—

(a) a person has given the board a notice under section 130; and

(b) there is a change in the information contained in the notice.

(2) The person must, within 14 days after the happening of the change, give the board notice of the change.

Maximum penalty—10 penalty units.

(3) The person does not commit an offence against section 130 during the period of 14 days after the happening of the change if the person complies with subsection (2).

Division 3—Advertising

Obligations of advertisers

132.(1) A person must not advertise a professional service, or a business providing professional services, in a way that—

(a) is false, misleading or deceptive or is likely to be misleading or deceptive; or

Example for paragraph (a)—

An advertisement that contains a false claim about the beneficial outcome of a professional service.

(b) offers a discount, gift or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms of the offer; or

(c) refers to, uses or cites actual or purported endorsements or testimonials about the service or business, or a registrant; or

(d) is disparaging of—

(i) a professional service provided by another person; or

(ii) a business providing professional services; or

(iii) a registrant.

Maximum penalty—200 penalty units.

(2) A person must not advertise a professional service that the person knows or ought reasonably know will, or is likely to, harm a person to whom it is provided.

Maximum penalty—200 penalty units.

(3) A person must not advertise a registrant's expertise in a field of practice of the profession unless the registrant has the skills, knowledge, training or qualifications necessary to practise in the field.

Maximum penalty—200 penalty units.

(4) A printer or publisher does not commit an offence against subsection (1), (2) or (3) merely by, as part of his or her business, printing or publishing an advertisement for another person.

Information to appear in advertisements

133.(1) A person must not advertise a professional service, or a business providing professional services, unless—

(a) if a registrant provides the service, or carries on the business, under a business name that is the registrant's own name—the registrant's name is stated in the advertisement; or

(b) otherwise—the business name notified to the board under section 130(1) or (3) is stated in the advertisement.

Maximum penalty—50 penalty units.

(2) A printer or publisher does not commit an offence against subsection (1) merely by, as part of his or her business, printing or publishing an advertisement for another person.

Division 4—Registrants' autonomy

Aiding, abetting etc. conduct that is a ground for disciplinary action

134.(1) A person must not aid, abet, counsel, procure or induce a registrant to engage in conduct that the person is aware, or ought reasonably be aware, is conduct forming the basis for a ground for disciplinary action against a registrant mentioned in the *Health Practitioners (Professional Standards) Act 1999*, section 124(1).[29]

Maximum penalty—1 000 penalty units.

(2) To remove doubt, it is declared that a registrant may be induced by threats or promises.

[29] *Health Practitioners (Professional Standards) Act 1999*, section 124 (Grounds for disciplinary action)

Division 5—Court orders and injunctions

Persons may be prohibited from supplying health services etc.

135.(1) This section applies if a person is convicted of an offence against section 125, 126, 127, 132(1)(a), (2) or (3), 134(1) or 138.[30]

(2) The court sentencing the person for the offence may, on its own initiative or the application of the prosecutor, make an order under subsection (3) or (5).

(3) The court may make an order, applying for a period decided by the court—

(a) prohibiting the person from providing, or carrying on or managing a business providing, a health service; or

(b) prohibiting the person from having a financial interest in a business providing a health service; or

(c) if the person is a corporation, prohibiting an executive officer of the corporation, who was in a position to influence the conduct of the corporation in relation to the offence, from managing a corporation that carries on a business providing a health service.

(4) For subsection (3)(c), a person manages a corporation if the person is a director, or is in any way concerned in or takes part in the management of, the corporation.

(5) Also, the court may make an order, applying for a period decided by the court—

(a) prohibiting the person from entering into commercial arrangements with a person who provides, carries on or manages a business providing, a health service; or

(b) if the person is a corporation, prohibiting an executive officer of the corporation, who was in a position to influence the conduct of the corporation in relation to the offence, from entering into

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[30] Section 125 (Taking of restricted titles etc.), 126 (Claims by persons as to registration), 127 (Claims by persons as to other persons' registration), 132 (Obligations of advertisers), 134 (Aiding, abetting etc. conduct that is a ground for disciplinary action) or 138 (Offence for taking reprisal)

commercial arrangements with a person who provides, carries on or manages a business providing, a health service.

(6) An order under subsection (3) or (5) may apply generally or be limited in its application by reference to specified conditions, exceptions or factors.

(7) A reference in subsection (5) to a person entering into commercial arrangements includes the entering into commercial arrangements on behalf of another person.

(8) A person must not contravene an order under subsection (3) or (5).

Maximum penalty for subsection (8)—1 000 penalty units.

Injunctions

136.(1) This section applies if—

(a) a person (the **"offending party"**)—

(i) has engaged, is engaging or is proposing to engage in conduct; or

(ii) has failed, is failing or is proposing to fail to do anything; and

(b) the conduct or failure constituted, constitutes or would constitute a contravention of section 125, 126, 127, 132(1)(a), (2) or (3) or 134(1).

(2) Application may be made to the court under this section for an injunction in relation to the conduct or failure.

(3) The application may be made by the board or a person authorised in writing by the board.

(4) The court may grant an interim injunction under this section until the application is finally decided.

(5) On considering the application for the injunction, the court may—

(a) in a case to which subsection (1)(a)(i) applies—grant an injunction restraining the offending party from engaging in the conduct concerned and, if in the court's opinion it is desirable to do so, requiring the offending party to do anything; or

(b) in a case to which subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing concerned.

(6) The court may grant the injunction—

(a) if the court is satisfied that the offending party has engaged in the conduct, or failed to do the thing, mentioned in subsection (1), whether or not it appears to the court that the offending party intends—

(i) to engage again, or continue to engage, in the conduct; or

(ii) to again fail, or continue to fail, to do the thing; or

(b) if it appears to the court that, if the injunction is not granted, it is likely that the offending party will engage in the conduct, or fail to do the thing, mentioned in subsection (1), whether or not the offending party has previously engaged in the conduct or failed to do the thing.

(7) The court may grant the injunction on the terms the court considers appropriate.

(8) Also, the court may grant an injunction requiring the offending party to take stated action (including action to disclose information or publish advertisements) to remedy any adverse effects of the offending party's conduct or failure.

(9) The court may discharge an injunction granted under this section at any time.

(10) The powers conferred on the court by this section are in addition to, and do not limit, any other powers of the court.

(11) In this section—

"court" means—

(a) if proceedings for an offence relating to the conduct or failure are pending in a Magistrates Court—the Magistrates Court; or

(b) in any case—the District Court.

Division 6—Reprisals

Reprisal and grounds for reprisals

137.(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that—

(a) anybody has given, or may give, information or assistance to the board or an inspector about a person's alleged contravention of division 1 or section 132(1)(a), (2) or (3) or 134(1);[31] or

(b) anybody has given, or may give, evidence to the court in proceedings for an offence against division 1 or section 132(1)(a), (2) or (3) or 134(1).

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

(4) A ground mentioned in subsection (1) as the ground for a reprisal is the unlawful ground for the reprisal.

(5) For the contravention mentioned in subsection (3) to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.

Offence for taking reprisal

138. A person who takes a reprisal commits an offence.

Maximum penalty—167 penalty units or 2 years imprisonment.

Damages entitlement for reprisal

139.(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to any person who suffers detriment as a result.

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[31] Division 1 (Restricted titles and holding out), section 132 (Obligations of advertisers) or 134 (Aiding, abetting etc. conduct that is a ground for disciplinary action)

(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

(3) If the claim for damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.

Division 7—Other provisions

Payment, or acceptance of payment, for referrals prohibited

140.(1) This section applies to a registrant, or a person carrying on a business providing professional services, (the **"service provider"**).

(2) The service provider must not, directly or indirectly, pay an amount or give another benefit, or attempt to pay an amount or give another benefit, to a person in return for the person referring another person to the service provider or service provider's business.

Maximum penalty—200 penalty units.

(3) The service provider must not, directly or indirectly, accept payment or another benefit for referring a user of the professional services provided by the service provider, or service provider's business, to a person providing, or carrying on a business providing, a health service.

Maximum penalty for subsection (3)—200 penalty units.

Business providing professional services to be carried on under supervision of registrant

141.(1) A person who owns a business providing professional services (a **"pharmacy business"**) that is not carried on under the personal supervision and management of a registrant commits an offence against this Act.

Maximum penalty—50 penalty units.

(2) For the purposes of subsection (1), a pharmacy business is not carried on under the personal supervision and management of a registrant unless the registrant is personally present in the premises at which the business is carried out at all times when the premises are open for business, other than for a period of not more than 1 hour in a day or another period approved by the board.

(3) In deciding under subsection (2) whether to approve another period, the board must have regard to the needs of users of the professional services provided by the pharmacy business.

PART 5—INVESTIGATION AND ENFORCEMENT

Division 1—Inspectors

Functions of inspectors

142. An inspector has the function of conducting investigations and inspections to enforce compliance with this Act.

Powers of inspectors

143. For this Act, an inspector has the powers given to the person under this Act.

Limitation on powers of inspectors

144. The powers of an inspector may be limited under a condition of appointment.

Division 2—Appointment of inspectors and other matters

Appointments

145. The board may appoint the following persons as an inspector—

(a) a member;

(b) the executive officer;

(c) if the executive officer has agreed to the appointment, a member of the office's staff the board considers has the necessary expertise or experience to be an inspector;

(d) another person the board considers has the necessary expertise or experience to be an inspector.

Appointment conditions

146.(1) An inspector holds office on the conditions stated in the instrument of appointment.

(2) An inspector ceases holding office—

(a) if the appointment provides for a term of appointment—at the end of the term; or

(b) if the conditions of appointment provide—on ceasing to hold another office (the **"main office"**) stated in the appointment conditions.

(3) An inspector may resign by signed notice of resignation given to the board.

(4) However, an inspector may not resign from the office of inspector (the **"secondary office"**) if a condition of the inspector's employment to the main office requires the inspector to hold the secondary office.

Identity cards

147.(1) The board must give an identity card to each inspector.

(2) The identity card must—

(a) contain a recent photograph of the inspector; and

(b) be signed by the inspector; and

(c) identify the person as an inspector for this Act; and

(d) include an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other Acts.

Failure to return identity card

148. A person who ceases to be an inspector must return the person's identity card to the chairperson within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Production or display of inspector's identity card

149.(1) An inspector may exercise a power in relation to someone else (the **"other person"**) only if the inspector—

(a) first produces the inspector's identity card for the other person's inspection; or

(b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

Division 3—Powers of inspectors

Subdivision 1—Entry of places

Power to enter places

150.(1) An inspector may enter a place if—

(a) its occupier consents to the entry; or

(b) it is a public place and the entry is made when the place is open to the public; or

(c) the entry is authorised by a warrant.

(2) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Subdivision 2—Procedure for entry

Entry with consent

151.(1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 150(1)(a).

(2) Before asking for the consent, the inspector must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and

(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgment, the inspector must immediately give a copy to the occupier.

(6) A court must find the occupier of a place did not consent to an inspector entering the place under this part if—

(a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 150(1)(a); and

(b) an acknowledgment mentioned in subsection (4) is not produced in evidence for the entry; and

(c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

Application for warrant

152.(1) An inspector may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

Issue of warrant

153.(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the **"evidence"**) that may provide evidence of an offence against this Act; and

(b) the evidence is at the place, or may be at the place within the next 7 days.

(2) The warrant must state—

(a) that a stated inspector may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry; and

(ii) exercise the inspector's powers under this part; and

(b) the offence for which the warrant is sought; and

(c) the evidence that may be seized under the warrant; and

(d) the hours of the day or night when the place may be entered; and

(e) the date, within 14 days after the warrant's issue, the warrant ends.

Special warrants

154.(1) An inspector may apply for a warrant (a **"special warrant"**) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the inspector's remote location.

(2) Before applying for the special warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the special warrant before the application is sworn.

(4) After issuing the special warrant, the magistrate must immediately fax a copy (the **"facsimile warrant"**) to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the inspector—

(a) the magistrate must tell the inspector—

(i) what the terms of the special warrant are; and

(ii) the date and time the special warrant was issued; and

(b) the inspector must complete a form of warrant (a **"warrant form"**) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the special warrant; and

(iii) the terms of the special warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the special warrant issued.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form, the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the special warrant.

(9) A court must find the exercise of the power by an inspector was not authorised by a special warrant if—

(a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and

(b) the special warrant is not produced in evidence; and

(c) it is not proved by the person relying on the lawfulness of the entry that the inspector obtained the special warrant.

Warrants—procedure before entry

155.(1) This section applies if an inspector named in a warrant issued under this part for a place is intending to enter the place under the warrant.

(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's identity card or other document evidencing the inspector's appointment;

(b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 154(6), a copy of the facsimile warrant or warrant form;

(c) tell the person the inspector is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the inspector immediate entry to the place without using force.

(3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Subdivision 3—Powers after entry

General powers after entering places

156.(1) This section applies to an inspector who enters a place.

(2) However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

(3) For enforcing compliance with this Act, the inspector may—

(a) search any part of the place; or

(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

(c) take a thing, or a sample of or from a thing, for analysis or testing; or

(d) take an extract from, or copy, a document at the place; or

(e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or

(f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e); or

(g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

(4) When making a requirement mentioned in subsection (3)(f) or (g), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to help inspector

157.(1) A person required to give reasonable help under section 156(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) If an individual is required under section 156(3)(f) to give information, or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Failure to give information

158.(1) A person of whom a requirement is made under section 156(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Subdivision 4—Power to seize evidence

Seizing evidence at a place that may be entered without consent or warrant

159. An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

Seizing evidence at a place that may only be entered with consent or warrant

160.(1) This section applies if—

(a) an inspector is authorised to enter a place under this division only with the consent of the occupier of the place or a warrant; and

(b) the inspector enters the place after obtaining the necessary consent or warrant.

(2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—

(a) the inspector reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

(4) The inspector also may seize anything else at the place if the inspector reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

Securing seized things

161. Having seized a thing, an inspector may—

(a) move the thing from the place where it was seized (the **"place of seizure"**); or

(b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted.

Tampering with seized things

162. If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—100 penalty units.

Powers to support seizure

163.(1) To enable a thing to be seized, an inspector may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement—

(a) must be made by notice in the approved form; or

(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

(3) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

Receipts for seized things

164.(1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

Forfeiture of seized things

165.(1) A seized thing is forfeited to the State if the inspector who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts; or

(c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.

(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and

(b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

(3) If the inspector makes a decision under subsection (1)(c), resulting in the seized thing being forfeited to the State, the inspector must immediately give the owner an information notice for the decision.

(4) Subsection (3) does not apply if—

(a) the inspector can not find the owner, after making reasonable inquiries; or

(b) it is impracticable or would be unreasonable to give the information notice.

(5) Regard must be had to a thing's nature, condition and value—

(a) in deciding—

(i) whether it is reasonable to make inquiries or efforts; and

(ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or

(b) in deciding whether it would be unreasonable to give the information notice.

Forfeiture on conviction

166.(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized, whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Dealing with forfeited things etc.

167.(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the executive officer as the executive officer considers appropriate.

(2) Without limiting subsection (1), the executive officer may destroy or dispose of the thing.

(3) Despite subsection (1), the executive officer must not deal with the thing in a way that could prejudice the outcome of—

(a) an appeal started under section 182(3); or

(b) another appeal, relevant to the thing, of which the executive officer is aware.

Return of seized things

168.(1) If a seized thing has not been forfeited, the inspector must return it to its owner—

(a) at the end of 6 months; or

(b) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

Access to seized things

169.(1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Subdivision 5—Power to obtain information

Power to require name and address

170.(1) This section applies if—

(a) an inspector finds a person committing an offence against this Act; or

(b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

(5) A requirement under subsection (2) or (4) is called a **"personal details requirement"**.

Failure to give name or address

171.(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

Power to require production of documents

172.(1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector a document issued to the person under this Act.

(2) The inspector may keep the document to copy it.

(3) The inspector must return the document to the person as soon as practicable after copying it.

(4) While the document is in the inspector's possession, the inspector must allow it to be inspected or copied, at a reasonable time, by a person who would be entitled to inspect or copy it were it not in the inspector's possession.

(5) A requirement under subsection (1) is called a **"document production requirement"**.

Failure to produce document

173.(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for an individual not to comply with a document production requirement if complying with the requirement might tend to incriminate the individual.

Power to require information

174.(1) This section applies if an inspector reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The inspector may, by notice given to the person, require the person to give information, including a document, about the offence to the inspector at a stated reasonable time and place.

(3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) For this section, it is a reasonable excuse for an individual to fail to give information that giving the information might tend to incriminate the individual.

Division 4—General enforcement matters

Notice of damage

175.(1) This section applies if—

(a) an inspector damages property when exercising or purporting to exercise a power; or

(b) a person (the **"other person"**) acting under the direction of an inspector damages property.

(2) The inspector must immediately give notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.

(3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably believes is trivial.

(6) In this section—

"owner", of property, includes the person in possession or control of it.

Compensation

176.(1) A person may claim from the board the cost of repairing or replacing property damaged because of the exercise or purported exercise of a power under any of the following subdivisions of division 3[32]—

- subdivision 1 (Entry of places)
- subdivision 3 (Powers after entry)
- subdivision 4 (Power to seize evidence).

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

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32 Division 3 (Powers of inspectors)

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

False or misleading information

177. A person must not give information to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

False or misleading documents

178.(1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the inspector, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

Obstructing inspectors

179.(1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

(a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and

(b) the inspector considers the person's conduct is an obstruction.

(3) In this section—

"obstruct" includes hinder and attempt to obstruct or hinder.

Impersonation of inspectors

180. A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

PART 6—APPEALS

Who may appeal

181.(1) A person (the **"appellant"**) who is given, or is entitled to be given, an information notice for a decision (the **"original decision"**) may appeal against the decision to the District Court.[33]

(2) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.

Starting appeals

182.(1) The appeal may be started at—

(a) the District Court at the place where the person resides or carries on business; or

(b) the District Court at Brisbane.

(2) Subsection (1) does not limit the District Court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999.*

(3) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—

(a) if the appellant is given an information notice for the original decision—the day the appellant is given the notice; or

(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the original decision.

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33 The *Uniform Civil Procedure Rules 1999* contains provisions about appeals to the District Court.

(4) The court may, at any time, extend the period for filing the notice of appeal.

Hearing procedures

183.(1) In deciding the appeal, the court—

(a) has the same powers as the person who made the original decision; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice.

(2) The appeal is by way of rehearing, unaffected by the original decision, on the material before the person who made the original decision and any further evidence allowed by the court.

Powers of court on appeal

184.(1) In deciding the appeal, the court may—

(a) confirm the original decision; or

(b) amend the original decision; or

(c) substitute another decision for the original decision; or

(d) set aside the original decision and return the issue to the board with the directions the court considers appropriate.

(2) In substituting another decision for the original decision, the court has the same powers as the person who made the original decision.

Example—

The court may decide that an unsuccessful applicant for general registration be registered either unconditionally or on particular conditions.

(3) If the court amends the original decision or substitutes another decision for the original decision, the amended or substituted decision is, for this Act (other than this part) taken to be the decision of the person who made the original decision.

(4) If the court decides to impose conditions on a registration, the court must—

(a) state the reasons for the decision; and

(b) if the registration is a general registration, decide and state the review period applying to the conditions.[34]

(5) If the court decides to impose conditions on a registration because of the registrant's mental and physical health, it must also decide whether details of the conditions must be recorded in the register for the period for which the conditions are in force.

(6) The court must decide not to record details of the conditions mentioned in subsection (5) in the register unless it reasonably believes it is in the interests of users of the registrant's services or the public to know the details.

Appointment of assessors

185.(1) If the court is of the opinion that the appeal involves a question of special knowledge and skill, the court may appoint 1 or more assessors who in the court's opinion possess the special qualifications necessary for the particular case to assist the court in its deciding the appeal.

(2) An assessor may advise the court on any matter, but all questions of law and fact are to be decided by the court.

(3) The court may give the weight to the advice that it considers appropriate.

PART 7—LEGAL PROCEEDINGS

Division 1—Evidence

Application of division

186. This division applies to a proceeding under this Act.

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34 The conditions may be reviewed under part 3 (Registration), division 7 (Reviewing conditions of general registrations).

Appointments and authority

187. It is not necessary to prove—

(a) an inspector's, or member's, appointment; or

(b) the executive officer's appointment; or

(c) the authority of an inspector, a member, the executive officer or a member of the office's staff to do anything under this Act.

Signatures

188. A signature purporting to be the signature of the Minister, the chairperson, a member, an inspector, the executive officer or a member of the office's staff is evidence of the signature it purports to be.

Evidentiary provisions

189. A certificate purporting to be signed by the executive officer and stating any of the following matters is evidence of the matter—

(a) a stated document is one of the following things made, given, issued or kept under this Act—

(i) an appointment, approval or decision;

(ii) a notice, direction or requirement;

(iii) a certificate of registration;

(iv) a record, or an extract from a record;

(v) the register, or an extract from the register;

(b) a stated document is another document kept under this Act;

(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, a stated person was or was not a registrant;

(e) on a stated day, or during a stated period, a registration—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition;

(f) on a stated day, a registration was cancelled;

(g) on a stated day, or during a stated period, an appointment as an inspector was, or was not, in force for a stated person;

(h) on a stated day, a stated person was given a stated notice or direction under this Act;

(i) on a stated day, a stated requirement was made of a stated person.

Division 2—Proceedings

Indictable and summary offences

190.(1) An offence against section 138[35] is an indictable offence.

(2) Any other offence against this Act is a summary offence.

Proceedings for indictable offences

191.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

(a) by way of summary proceeding under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

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35 Section 138 (Offence for taking reprisal)

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).[36]

Limitation on who may summarily hear indictable offence

192.(1) The proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if the proceeding is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Limitation on time for starting summary proceedings

193. A proceeding for a summary offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

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36 *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

Allegations of false or misleading information or documents

194. In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

Penalties to be paid to board

195. All penalties recovered as a result of proceedings for offences against this Act brought by the board must be ordered to be paid to the board.

Responsibility for acts or omissions of representatives

196.(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done 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.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

"representative" means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

(b) for an individual—an employee or agent of the individual.

"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.

Executive officers must ensure corporation complies with Act

197.(1) The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

PART 8—REGISTER, RECORDS AND INFORMATION

Division 1—Register

Register to be kept

198.(1) The board must keep a register about registrants.

(2) The register may be kept in the way the board considers appropriate, including, for example, in an electronic form.

(3) The register must contain the following details for each registrant—

(a) the registrant's name;

(b) an address of the registrant notified by the registrant to the board;

(c) whether the registrant is a general registrant, provisional general registrant, special purpose registrant or provisional special purpose registrant;

(d) the qualification relied on by the registrant to obtain registration;

(e) if the registrant is a special purpose registrant or provisional special purpose registrant, details of the special activity for which the registrant is registered;

(f) if conditions are imposed, under this Act, on the registrant's registration—

  (i) for conditions imposed because of the registrant's mental and physical health, the details of which it has been decided under this Act not to record in the register—the fact that conditions have been imposed; or

  (ii) otherwise—details of the conditions;

(g) whether the registrant has an approval or an authority under the *Health (Drugs and Poisons) Regulation 1996* to which a condition applies and, if so, details of the condition;

(h) whether the registrant has an approval or authority under the *Health (Drugs and Poisons) Regulation 1996* that is currently cancelled or suspended under that regulation;

(i) any other information required to be recorded in the register under the *Health Practitioners (Professional Standards) Act 1999*;

(j) other details prescribed under a regulation.

(4) For subsection (3)(f), the fact or details must be recorded in the register for the period the conditions are in force.

Inspection of register

199.(1) The board must—

(a) keep the register open for inspection, free of charge, at the office by members of the public during ordinary office hours; and

(b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.

(2) Subsection (1) does not apply to details of the residential address of a registrant, unless the registrant gives notice to the board that he or she agrees to the details being able to be inspected.

Division 2—Records to be kept

Records

200.(1) The board must keep records of the following details about each registrant or former registrant—

(a) if the registration was affected under the *Health Practitioners (Professional Standards) Act 1999*, details of the way it was affected and the reason for it being affected;

(b) if the registration was cancelled under this Act, the fact of, and the reason for, the cancellation;

(c) if conditions were, under this Act, imposed on the registration, details of the conditions and the reasons for their imposition;

(d) other details prescribed under a regulation.

(2) The records must be kept for at least 10 years.

Division 3—Information

Confidentiality of information

201.(1) This section applies to a person (the **"relevant person"**) who is or was—

(a) a member; or

(b) a member of a committee; or

(c) appointed by the board to conduct a health assessment of another person; or

(d) an inspector; or

(e) the executive officer or a member of the office's staff; or

(f) otherwise involved in the administration of this Act.

(2) This section applies to information about a person obtained by the relevant person in the course of performing the relevant person's functions under this Act.

(3) The relevant person must not disclose the information to anyone else.

Maximum penalty—100 penalty units.

(4) However, the relevant person may disclose the information to someone else—

(a) to the extent necessary to perform the relevant person's functions under or relating to this Act or the *Health Practitioners (Professional Standards) Act 1999*; or

(b) if the disclosure is authorised under this or another Act; or

(c) if the disclosure is otherwise required or permitted by law; or

(d) if the person to whom the information relates agrees to the disclosure; or

(e) if the disclosure is in a form that does not disclose the identity of a person; or

(f) if the information is, or has been, accessible to the public, including, for example, because it is or was recorded in the register; or

(g) if the disclosure is to a foreign regulatory authority and the disclosure is necessary for the authority to perform its functions; or

(h) if the disclosure is to the Minister to allow the Minister to act under paragraph (i); or

(i) if the Minister considers the disclosure is in the public interest and authorises the relevant person to disclose the information.

(5) If the Minister authorises information to be disclosed under subsection (4)(i) about a matter concerning a registrant, the Minister must inform the board of the authorisation and its purpose.

(6) In this section—

“information”, about a person, means—

(a) information about the person’s health that identifies, or is likely to identify, the person; or

(b) information about the person’s criminal history obtained under a request under section 46(3).

Board’s annual report must disclose authorisation

202.(1) This section applies if the board is given information, under section 201(5), in a financial year about an authorisation.

(2) The board must include a statement about the authorisation in its annual report under the *Financial Administration and Audit Act 1977* for the financial year.

(3) The statement must include general details about—

(a) the nature of the information disclosed under the authorisation; and

(b) the purpose for which the information was disclosed.

(4) However, the statement must not identify any person.

PART 9—MISCELLANEOUS

Division 1—Abandoned, and other, health records

Definitions for div 1

203. In this division—

“health records” means documents, recording the health history, condition and treatment of users of the professional services provided by a person, made in the course of the person’s practice of the profession.

“possess”, a health record, includes having the record under control in any place, whether or not another person has custody of the record.

Board may take possession of abandoned health records

204.(1) This section applies if the board suspects on reasonable grounds that health records have been abandoned.

(2) The board may take and keep possession of the records to be dealt with under this division.

(3) For taking possession of the records, the board may give notice to the occupier of the place where the records are situated to deliver the records to the board to be dealt with under this division.

(4) The notice must state that the requirement must be complied with within a period of 14 days after the occupier receives the notice.

(5) The occupier must comply with the requirement within the stated period, unless the occupier has a reasonable excuse.

Maximum penalty for subsection (5)—50 penalty units.

Health records forming part of deceased estate

205.(1) This section applies if health records form part of a deceased estate.

(2) The personal representative of the deceased person concerned may deliver the records into the possession of the board to be dealt with under this division.

Health records of persons convicted of an offence against s 125(1) or (6) or 126

206.(1) This section applies to a person who is convicted of an offence against section 125(1) or (6) or 126.[37]

(2) The board may give the person notice to deliver health records in the possession or control of the person into the possession of the board to be dealt with under this division.

(3) The person must within 14 days after receiving the notice deliver the records into the possession of the board.

Maximum penalty—50 penalty units.

(4) If the person does not comply with the notice, the board may take and keep possession of the records.

Dealing with certain health records seized under s 159 or 160

207.(1) This section applies if, under section 159 or 160,[38] an inspector seizes health records that the board may take and keep possession of under section 204 or 206.

(2) The inspector must deliver the health records into the possession of the board to be dealt with under this division.

(3) Sections 165, 168 and 169[39] do not apply to health records delivered to the board under subsection (2).

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[37] Section 125 (Taking of restricted titles etc.) or 126 (Claims by persons as to registration)

[38] Section 159 (Seizing evidence at a place that may be entered without consent or warrant) or 160 (Seizing evidence at a place that may only be entered with consent or warrant)

[39] Sections 165 (Forfeiture of seized things), 168 (Return of seized things) and 169 (Access to seized things)

How board may deal with health records

208.(1) This section applies if the board takes possession of a health record under this division.

(2) The board may—

(a) give the record to the person to whom the record relates; or

(b) if directed by the person, give the record to a registrant under a health practitioner registration Act chosen by the person; or

(c) if the board can not find the person after making reasonable inquiries, keep the record; or

(d) if the board can not find the person, after making reasonable inquiries, and decides it is no longer necessary to keep the record, destroy the record.

(3) To remove doubt, it is declared that the board is taken to be keeping a health record if another body stores the record on its behalf.

Destruction of health records

209.(1) This section applies if the board destroys a health record under section 208(2)(d).

(2) Compensation is not recoverable against the board because of the destruction of the record.

Division 2—Continuing professional education of registrants

Continuing professional education programs

210.(1) The board may develop or recognise a program for the continuing professional education of registrants.

(2) The board must give notice to all registrants, to whom the program is relevant, of details of the program.

(3) The program may state the minimum continuing professional education requirements a registrant needs to satisfy, in a stated period, to keep up-to-date with developments in the practice of the profession.

(4) A registrant who has satisfied the requirements in the stated period may advertise this fact.

(5) A registrant who has not satisfied the requirements in the stated period must not advertise that the registrant has satisfied the requirements.

Maximum penalty for subsection (5)—50 penalty units.

Division 3—Other provisions

Protecting officials from liability

211.(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the board.

(3) In this section—

"official" means—

(a) a member; or

(b) a committee member who is not a board member; or

(c) the executive officer; or

(d) a person appointed by the board to conduct a health assessment of another person; or

(e) an inspector; or

(f) a person acting under the direction or authority of an inspector.

False or misleading information or documents

212.(1) A person must not give information to the board the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(2) A person must not give the board a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(3) Subsection (2) does not apply to a person if the person, when giving the document—

(a) tells the board, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

Certificates etc. not to be false or misleading

213. A registrant must not, in the registrant's professional capacity, sign or give to another person, a certificate, notice, report or other document the registrant knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

Application of provisions

214.(1) This section applies if a provision of this Act applies another provision of this Act for a purpose.

(2) The other provision, and any definition relevant to the other provision, apply with any necessary changes.

(3) Subsection (2) is not limited merely because a provision states how the other provision is to apply.

Approval of forms

215. The board may approve forms for use under this Act.

Examination fees

216. A person who sits an examination set and administered by the board under this Act must, before sitting the examination, pay the board the fee for the examination prescribed under a regulation.

Regulation-making power

217.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

(a) fees, including the refunding of fees, for this Act;

(b) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation;

(c) training courses in the practice of the profession;

(d) the requirements for supervised practice, including, for example, the number of hours of supervised practice to be undertaken for eligibility for registration and the terms under which the practice must be completed.

(3) Without limiting subsection (2)(a), a regulation may prescribe amounts as fees having regard to the costs of the board performing its functions under, or complying with—

(a) an Act in the legislative scheme; or

(b) another Act.

PART 10—REPEAL, TRANSITIONAL AND SAVINGS PROVISIONS

Division 1—Repeal

Repeal of Pharmacy Act 1976

218. The *Pharmacy Act 1976* (1976 Act No. 73) is repealed.

Division 2—Transitional provisions

Definitions for div 2

219. In this division—

"commencement" means commencement of this section.

"former board" means the Pharmacy Board of Queensland under the repealed Act.

References to repealed Act or former board

220.(1) In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.

(2) A reference in an Act or document to the former board may, if the context permits, be taken as a reference to the board.

Board is the legal successor

221.(1) The board is the successor in law of the former board.

(2) Sections 222 to 226 do not limit subsection (1).

Assets and liabilities etc.

222. On the commencement—

(a) the assets and liabilities of the former board become assets and liabilities of the board; and

(b) any contracts entered into by or on behalf of the former board and all guarantees, undertakings and securities given by or on behalf of the former board, in force immediately before the commencement, are taken to have been entered into or given by or to the board and may be enforced against or by the board; and

(c) any property that, immediately before the commencement, was held on trust, or subject to a condition, by the former board continues to be held by the board on the same trusts, or subject to the same condition.

Service agreements

223. A service agreement entered into by the former board, in force immediately before the commencement, is taken to have been entered into by the board.

Proceedings

224. A proceeding that could have been started or continued by or against the former board before the commencement may be started or continued by or against the board.

Dealing with matter under Health Practitioners (Professional Standards) Act 1999

225. A matter that had started to be, or could have been, dealt with under the *Health Practitioners (Professional Standards) Act 1999* by the former board before the commencement may be continued, or started, to be dealt with by the board.

Offences

226.(1) Proceedings for an offence against the repealed Act may be continued, or started by the board, and the provisions of the repealed Act and the *Medical Act and Other Acts (Administration) Act 1966* necessary or convenient to be used in relation to the proceedings continue to apply, as if this Act had not commenced.

(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20[40] applies, but does not limit the subsection.

(3) This section has effect despite the repeal of the *Medical Act and Other Acts (Administration) Act 1966*.

Membership of board

227.(1) From the commencement, the board consists of the existing members.

(2) Also, the board may include other persons appointed by the Governor in Council (the **"additional members"**).

(3) However, the first board must not consist of more than 11 members.

(4) An existing member holds office as a member until the earlier of the

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40 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)

following days—

(a) the day the existing member's term of appointment under the repealed Act would have ended if this Act had not commenced;

(b) if the existing member vacates office under this Act before the day mentioned in paragraph (a), the day the existing member vacates office.

(5) An additional member is to be appointed for a term that ends on or before the day when the existing members' terms of appointment under the repealed Act would have ended if this Act had not commenced.

(6) If a person, including an existing member, appointed to the board under this section is a registrant, the person is taken to be a registrant member.

(7) The Governor in Council may appoint a person to fill the office of a member of the first board if it is vacant.

(8) This section has effect despite sections 16 to 19 and 21.[41]

(9) In this section—

"existing member" means a person who, immediately before the commencement, held office as a member of the former board.

"first board" means the board as constituted under this section.

Chairperson and deputy chairperson of board

228.(1) From the commencement—

(a) the existing chairperson is taken to be the chairperson of the board as constituted under section 227; and

(b) the existing deputy chairperson is taken to be the deputy chairperson of the board as constituted under section 227.

(2) The existing chairperson ceases to hold office as the chairperson if the existing chairperson vacates the office of chairperson under this Act.

(3) The existing deputy chairperson ceases to hold office as the deputy

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41 Sections 16 (Membership of board), 17 (Registrant members), 18 (Public members), 19 (Certain nominee board members) and 21 (Term of appointment)

chairperson if the existing deputy chairperson vacates the office of deputy chairperson under this Act.

(4) This section has effect despite section 20(1) and (3).[42]

(5) In this section—

"existing chairperson" means the person who, immediately before the commencement, held office as the chairperson of the former board.

"existing deputy chairperson" means the person who, immediately before the commencement, held office as the deputy chairperson of the former board.

Appeals

229.(1) Subsection (2) applies if—

(a) a person has appealed to the District Court under repealed section 29(1)(a) before the commencement against a decision of the former board; and

(b) the appeal has not been decided before the commencement.

(2) The District Court may hear, or continue to hear, and decide the appeal under the repealed Act as if this Act had not commenced.

(3) Subsection (4) applies if—

(a) immediately before the commencement a person could have appealed to the District Court under the repealed section 29(1)(a) against a decision of the former board; and

(b) the person has not appealed before the commencement.

(4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.

(5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.

Example for subsection (5)—

On an appeal by a person against a decision of the former board to refuse to

42 Section 20 (Chairperson and deputy chairperson of board)

register the person as a pharmacist under the repealed Act, the District Court may order that the board register the person under this Act.

(6) In this section—

"District Court" includes a District Court judge.

"repealed section 29(1)(a)" means section 29(1)(a) of the repealed Act.

Existing registrations

230.(1) This section applies to a person who, immediately before the commencement, was registered as a pharmacist under section 19 of the repealed Act.

(2) The person is taken to be registered as a general registrant under this Act.

(3) If the person's registration under the repealed Act was, immediately before the commencement, subject to conditions, the person's general registration under this Act is taken to be subject to the conditions.

(4) Despite section 60,[43] the person's general registration under this Act continues until the later of the following days—

(a) 31 January first happening after the commencement;

(b) the day that is 3 months after the commencement.

(5) However, subsection (4) stops applying if the person's general registration is surrendered or cancelled.

Existing applications for registration

231.(1) An application for registration as a pharmacist made under section 19 of the repealed Act, and not decided before the commencement, must be decided under this Act.

(2) The application is taken to be for general registration under this Act.

(3) Part 3, division 2[44] applies to the application.

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43 Section 60 (Period)

44 Part 3 (Registration), division 2 (Applications for general registration)

(4) However, the provisions of part 3, division 2 dealing with making the application in the approved form and paying the application fee and registration fee, that would otherwise apply do not apply to the application.

Existing applications for restoration of registration

232.(1) An application for the restoration of registration as a pharmacist made under section 22(4) of the repealed Act, and not decided before the commencement, must be decided under this Act.

(2) The application is taken to be for the restoration of general registration under this Act.

(3) Part 3, division 5[45] applies to the application.

(4) However, the following provisions do not apply to the application—

(a) the provisions, applied by section 80,[46] to the extent to which they relate to recency of practice requirements;

(b) sections 81, 82 and 85.[47]

Suspended registrations

233.(1) This section applies if a person's registration as a pharmacist under the repealed Act has been suspended and the period of suspension has not ended before the commencement.

(2) The suspension is taken to continue as a suspension of the person's general registration under this Act.

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45 Part 3 (Registration), division 5 (Restoration of general registrations)

46 Section 80 (Application of div 4, sdivs 1 and 3)

47 Sections 81 (When an application for restoration of a general registration may be made), 82 (Procedural requirements for applications) and 85 (When recency of practice conditions take effect)

Sections 130 and 133 ineffective for 6 months

234.(1) Sections 130 and 133[48] have no effect for 6 months after they commence.

(2) However, a person may give the board a notice mentioned in section 130 within the 6 month period.

Records

235.(1) This section applies if—

(a) a registration was affected under the repealed Act; and

(b) immediately before the commencement, the former board held a record of the details of the way the registration was affected and the reason for it being affected.

(2) The record must be kept by the board for at least 10 years after the commencement.

Certain Act has not been repealed

236.(1) This section applies if an Act mentioned in column 2 of the following table (the **"column 2 Act"**) has not been repealed—

Table

column 1	column 2
Chiropractors Registration Act 2000	*Chiropractors and Osteopaths Act 1979*
Dental Practitioners Registration Act 2000	*Dental Act 1971*
Dental Technicians and Dental Prosthetists Registration Act 2000	*Dental Technicians and Dental Prosthetists Act 1991*
Medical Practitioners Registration Act 2000	*Medical Act 1939*

48 Sections 130 (Notification of business names etc.) and 133 (Information to appear in advertisements)

Occupational Therapists Registration Act 2000	*Occupational Therapists Act 1979*
Optometrists Registration Act 2000	*Optometrists Act 1974*
Osteopaths Registration Act 2000	*Chiropractors and Osteopaths Act 1979*
Physiotherapists Registration Act 2000	*Physiotherapists Act 1964*
Podiatrists Registration Act 2000	*Podiatrists Act 1969*
Psychologists Registration Act 2000	*Psychologists Act 1977*
Speech Pathologists Registration Act 2000	*Speech Pathologists Act 1979.*

(2) A reference in schedule 4, definition "health practitioner registration Act" to the Act mentioned in column 1 of the table shown opposite the column 2 Act is taken to be a reference to the column 2 Act.

Division 3—Savings provisions

[49]

Continuation of approvals under s 30 of the repealed Act

242. An approval given under section 30 of the repealed Act, and having effect immediately before the commencement of this section, continues to have effect as an approval under section 238.

Continuation of approvals under s 35 of the repealed Act

243. An approval given under section 35 of the repealed Act, and having effect immediately before the commencement of this section, continues to have effect as an approval under section 241.

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49 Section 246 and schedule 3 amend the *Pharmacy Act 1976* and relocate certain provisions of that Act to this division.

Continuation of certain provisions of regulation under repealed Act

244.(1) The *Pharmacy Regulation 1997*, section 3 and schedule 2, as in force immediately before the commencement of this section, and as amended by section 247 (the **"saved provisions"**), continue to have effect and are taken to be a regulation under this Act for all purposes, including amendment and repeal by regulation.

(2) A regulation under this Act may relocate the saved provisions to a regulation under this Act and for that purpose renumber the saved provisions.

PART 11—CONSEQUENTIAL AND OTHER AMENDMENTS

Amendment of Acts

245. Schedule 2 amends the Acts mentioned in it.

Amendment of Pharmacy Act 1976

246. Schedule 3 amends the *Pharmacy Act 1976* and relocates certain provisions of that Act to part 10, division 3.

Amendment of Pharmacy Regulation 1997

247.(1) This section amends the *Pharmacy Regulation 1997*.

(2) Section 3, 'section 5'—

omit, insert—

'section 237'.

SCHEDULE 1

DECISIONS FOR WHICH INFORMATION NOTICES MUST BE GIVEN

section 181(2)

Section	Description of decision
55	Deciding to refuse to register an applicant for general registration as a general registrant
55, as applied by section 105	Deciding to refuse to register an applicant for special purpose registration as a special purpose registrant
61	Deciding to register a person as a general registrant on conditions and deciding the review period applying to the conditions
77	Deciding to refuse to renew a general registration
77, as applied by section 80	Deciding to refuse to restore a general registration
77, as applied by section 112	Deciding to refuse to renew a special purpose registration
78	Deciding to renew a general registration on recency of practice conditions and deciding the review period applying to the conditions
78, as applied by section 80	Deciding to restore a general registration on recency of practice conditions and deciding the review period applying to the conditions

SCHEDULE 1 (continued)

90	Deciding to cancel a general registration
90, as applied by section 116	Deciding to cancel a special purpose registration
98	Deciding to confirm or change conditions of a general registration and deciding the review period applying to the conditions
110	Deciding to register a person as a special purpose registrant on conditions
114	Deciding to renew a special purpose registration on conditions
121	Deciding to refuse to grant an application for the replacement of a certificate of registration
165(1)(c)	Decision resulting in a thing being forfeited to the State

1

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS OF ACTS

section 245

DRUGS MISUSE ACT 1986

1. Section 4, definition “pharmacist”—

omit, insert—

‘ **“pharmacist”** means a person registered under the *Pharmacists Registration Act 2000*.’.

HEALTH ACT 1937

1. Section 5(1), definition “pharmacist”—

omit, insert—

‘ **“pharmacist”** means a person registered under the *Pharmacists Registration Act 2000*.’.

2. Section 5(1), definition “health practitioner registration Act’, ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

3. Section 152(za), ‘within the meaning of the *Pharmacy Act 1976*’—

omit.

SCHEDULE 2 (continued)

HEALTH PRACTITIONER REGISTRATION BOARDS (ADMINISTRATION) ACT 1999

1. Schedule, definition “health practitioner registration Act”, ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999

1. Schedule, definition “health practitioner registration Act”, ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

2. Schedule, definition “profession”, paragraph (h), ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

SCHEDULE 2 (continued)

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) ACT 1998

1. Schedule, definition “health registration Act”, ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

HEALTH RIGHTS COMMISSION ACT 1991

1. Schedule 2, item 7—

omit, insert—

‘**7.** Pharmacists Board of Queensland’.

HEALTH SERVICES ACT 1991

1. Section 63(6), ‘*Pharmacy Act 1976*’—

omit, insert—

‘*Pharmacists Registration Act 2000*’.

SCHEDULE 2 (continued)

MEDICAL ACT AND OTHER ACTS (ADMINISTRATION) ACT 1966

1. Title, 'the *Pharmacy Act 1917,*'—

omit.

2 Section 4(1)(f)—

omit.

RADIATION SAFETY ACT 1999

1. Schedule 2, definition "health practitioner registration Act", '*Pharmacy Act 1976*'—

omit, insert—

'*Pharmacists Registration Act 2000*'.

VETERINARY SURGEONS ACT 1936

1. Section 34(2)—

omit, insert—

'**(2)** In this section—

"pharmacist" means a person registered under the *Pharmacists Registration Act 2000*.'.

SCHEDULE 3

AMENDMENT OF PHARMACY ACT 1976

section 246

1. Section 5, ‘In this Act’—

omit, insert—

‘In this division’.

2. Section 5, definitions “approved form”, “fee”, “inspector”, “pharmacist”, “register”, “registrar”, “the board”, and “the repealed Acts”—

omit.

3. Section 5, definition “friendly society” and section 34(1), ‘Act’—

omit, insert—

‘division’.

4. Section 5, definitions “pharmacy” and ‘ “practice of pharmacy” or **“pharmacy practice” ’ and sections 30(1), 32(1), 34 and 35(1) and (2), ‘pharmacist’—**

omit, insert—

‘registrant’.

5. Sections 30(1), (2), (3B) and (4), 32(1) and 35(2)—

insert—

‘Maximum penalty—20 penalty units.’.

SCHEDULE 3 (continued)

6. Section 30(3)(a), 'carries'—

omit, insert—

'carried'.

7. Section 30(3)(a), (3A), (3B) and (8), 'this Act'—

omit, insert—

'the repealed Act'.

8. Section 30(3)(a), 'continues'—

omit, insert—

'has continued'.

9. Section 30(3)(b), 'subsection (7)'—

omit, insert—

'subsections (7) and (7A)'.

10. Section 30(3A), 'carries on as owner or has'—

omit, insert—

'carried on as owner or had'.

11. Section 30(3B), 'carries on as owner or has a pecuniary interest, direct or indirect'—

omit, insert—

'carried on as owner or had a pecuniary interest, direct or indirect, and has continued to carry on as owner or have the interest'.

SCHEDULE 3 (continued)

12. Section 30(8), 'has a pecuniary interest direct or indirect'—

omit, insert—

'had a pecuniary interest, direct or indirect, and has continued to have the interest,'.

13. Section 32(2)(a), 'section 19'—

omit, insert—

'section 47(1) or 48'.

14. Section 32(3) to (5)—

omit.

15. Section 34(2), 'section 30'—

omit, insert—

'section 238'.

16. Sections 34(2) and 35(1), 'pharmacist's'—

omit, insert—

'registrant's'.

17. Section 35, heading, 'pharmacists'—

omit, insert—

'registrants'.

18. Section 35(1)(b), 'pursuant to section 25'—

omit, insert—

'under the *Health Practitioners (Professional Standards) Act 1999'*.

SCHEDULE 3 (continued)

19. Section 35(3), ‘section 30(1)’—

omit, insert—

‘section 238(1)’.

20. Sections 5, 30, 32, 34 and 35—

relocate to the *Pharmacists Registration Act 2000* and in that Act *insert* and *renumber*, in part 10, division 3, as sections 237 to 241.

SCHEDULE 4

DICTIONARY

section 9

“accepted representations” see section 88(2).

“advertise” includes—

(a) placing an entry in a directory; and

(b) displaying a sign; and

(c) using printed stationery.

“appellant” see section 181(1).

“application fee” see section 43(1)(c)(ii).

“approved form” means a form approved by the board.

“assessment report” see section 52(1).

“authorised person”, for part 3, division 3, see section 63(1).

“board” means the Pharmacists Board of Queensland.

“business name”, of a business, means a name or style under which the business is carried on.

“certificate of general registration” means a certificate of general registration issued under part 3.

“certificate of provisional general registration” means a certificate of provisional general registration issued under section 64(5).

“certificate of provisional special purpose registration” means a certificate of provisional special purpose registration issued under part 3, division 8.

“certificate of registration” means a certificate of general registration, certificate of provisional general registration, certificate of special purpose registration or certificate of provisional special purpose registration.

SCHEDULE 4 (continued)

“certificate of special purpose registration” means a certificate of special purpose registration issued under part 3, division 8.

“certified copy”, of a certificate of registration, means a copy that is certified by the board as being a true copy of the certificate.

“chairperson” means the chairperson of the board appointed under section 20(1).

“commencement”, for part 10, division 2, see section 219.

“committee” means a committee of the board established under section 34(1).

“convicted”, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

“corresponding law” means a law applying, or that applied, in another State, the Commonwealth or a foreign country that provides, or provided, for the same matter as—

(a) a health practitioner registration Act or the *Health Practitioners (Professional Standards) Act 1999*; or

(b) a provision of a health practitioner registration Act or the *Health Practitioners (Professional Standards) Act 1999.*

“deputy chairperson” means the deputy chairperson of the board appointed under section 20(1).

“document production requirement” see section 172(5).

“educational institution” means a university, training institution or professional college engaged in the education of persons in the practice of the profession.

“executive officer” means the executive officer appointed under the *Health Practitioner Registration Boards (Administration) Act 1999*.

“executive officer”, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“facsimile warrant” see section 154(4).

SCHEDULE 4 (continued)

“foreign regulatory authority” means—

(a) an interstate regulatory authority; or

(b) an entity established under a law applying in a foreign country, other than New Zealand, having functions similar to the board’s functions under this Act or the *Health Practitioners (Professional Standards) Act 1999.*

“former board”, for part 10, division 2, see section 219.

“former registrant” means a person who was, but is not currently, registered under part 3.

“general registrant” means a person registered, under part 3, as a general registrant, but does not include a provisional general registrant.

“general registration” means registration of a person as a general registrant under part 3.

“general registration period”see section 60(1).

“health assessment”, in relation to a person, includes—

(a) a physical, medical, psychiatric or psychological examination or test of the person; and

(b) asking questions to assess the person’s mental and physical health.

“Health Insurance Commission” means the Health Insurance Commission established under the *Health Insurance Commission Act 1973* (Cwlth), section 4.

“health practitioner registration Act” means any of the following Acts—

- this Act
- *Chiropractors Registration Act 2000*
- *Dental Practitioners Registration Act 2000*
- *Dental Technicians and Dental Prosthetists Registration Act 2000*
- *Medical Practitioners Registration Act 2000*

SCHEDULE 4 (continued)

- *Medical Radiation Technologists Registration Act 2000*
- *Occupational Therapists Registration Act 2000*
- *Optometrists Registration Act 2000*
- *Osteopaths Registration Act 2000*
- *Physiotherapists Registration Act 2000*
- *Podiatrists Registration Act 2000*
- *Psychologists Registration Act 2000*
- *Speech Pathologists Registration Act 2000*.

"health records", for part 9, division 1, see section 203.

"health service" means a service for maintaining, improving or restoring people's health and wellbeing.

"impose", a condition, includes change or confirm the condition.

"information notice", for a decision of the board or an inspector, is a notice stating the following—

(a) the decision;

(b) the reasons for the decision;

(c) that the person to whom the notice is given may appeal against the decision within 28 days;

(d) how the person may appeal against the decision to the District Court;

(e) if the decision is that a person be registered on conditions—

(i) for a general registration—the review period applying to the conditions; and

(ii) for conditions imposed because of the person's mental and physical health, the details of which it has been decided under section 61(4) to record in the register—the details that must be recorded in the register for the period for which the conditions are in force;

(f) if the decision is that a general registration be renewed or restored

SCHEDULE 4 (continued)

on recency of practice conditions, the review period applying to the conditions;

(g) if the decision is that a registration be cancelled, a direction to the person to return the certificate of registration to the board within 14 days after receiving the notice;

(h) if the decision is that the conditions imposed on a general registration be confirmed, the review period applying to the confirmed conditions;

(i) if the decision is that the conditions imposed on a general registration be changed—

(i) the review period applying to the changed conditions; and

(ii) if the conditions were imposed because of the person's mental and physical health and it is decided under section 102(2) that details of the changed conditions must be recorded in the register, the details that must be recorded in the register for the period for which the changed conditions are in force; and

(iii) a direction to the person to return the certificate of registration to the board within 14 days after receiving the notice.

"inspector" means a person who is appointed as an inspector under section 145.

"interstate regulatory authority" means an entity established under the law of another State or New Zealand having functions similar to the board's functions under this Act or the *Health Practitioners (Professional Standards) Act 1999.*

"legislative scheme" see section 4.

"medical condition" includes substance abuse or dependence.

"member" means a member of the board.

"notice" means written notice.

"occupier", of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.

SCHEDULE 4 (continued)

“office” means the Office of Health Practitioner Registration Boards under the *Health Practitioner Registration Boards (Administration) Act 1999*.

“original decision” see section 181(1).

“personal details requirement” see section 170(5).

“place” includes premises, vacant land and a vehicle.

“place of seizure” see section 161.

“possess”, a health record, for part 9, division 1, see section 203.

“premises” includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) land where a building or other structure is situated.

“profession” means the pharmacy profession.

“professional service” means a pharmacy service.

“provisional general registrant” means a person registered, under section 64, as a provisional general registrant.

“provisional general registration” means registration of a person as a provisional general registrant under section 64.

“provisional special purpose registrant” means a person registered, under part 3, division 8, as a provisional special purpose registrant.

“provisional special purpose registration” means registration of a person as a provisional special purpose registrant under part 3, division 8.

“public members” see section 16(2)(b).

“public place” means a place that the public is entitled to use, is open to the public or is used by the public (whether or not on payment of money).

“recency of practice conditions” see section 78(2).

“recency of practice requirements” see section 72.

“register” means the register kept under section 198.

SCHEDULE 4 (continued)

“registrant” means a person registered under part 3.

“registrant members” see section 16(2)(a).

“registration” means registration under part 3.

“registration fee” see section 43(1)(c)(iii).

“renewable registration” means a general registration or special purpose registration.

“repealed Act” means the *Pharmacy Act 1976.*

“restoration fee” see section 82(1)(b)(i).

“restricted title” means a title that consists of, or includes, the words ‘chemist’, ‘pharmaceutical chemist’ or ‘pharmacist’.

“review period”, applying to conditions imposed by the board or the District Court on a general registration, means the period, not more than 3 years after the decision to impose the conditions takes effect, within which the registrant may not apply for a review of the conditions under part 3, division 7.

“service agreement” means an agreement made under the *Health Practitioner Registration Boards (Administration) Act 1999,* between the executive officer and the board, for the provision of administrative and operational support by the office to the board.

“show cause notice” see section 87(1).

“show cause period” see section 87(2)(d).

“special activities” see section 104.

“special purpose registrant” means a person registered, under part 3, division 8, as a special purpose registrant, but does not include a provisional special purpose registrant.

“special purpose registration” means registration of a person as a special purpose registrant under part 3, division 8.

“supervised practice” see section 48.

SCHEDULE 4 (continued)

“user”, of a registrant’s services, includes a person who used the services.

“warrant form” see section 154(5)(b).