

NO. 6 OF 1995: PHARMACY AMENDMENT ACT, 1995.

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Pharmacy Act, 1974, so as to insert certain definitions and to amend others; to provide for the establishment, constitution and objects of the Interim Pharmacy Council of South Africa; to provide for the abolition of the South African Pharmacy Council; and to provide for the repeal of certain laws in respect of the pharmaceutical profession which remained in force in the various territories. of the national territory of the Republic by virtue of section 229 of the Constitution; and to provide for matters connected therewith.

(English text signed by the President.)

(Assented to 6 April 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 53 of 1974, as amended by section 1 of Act 20 of 1979, section 1 of Act 20 of 1983, section 1 of Act 69 of 1985 and section 23 of Act 94 of 1991

1. Section 1 of the Pharmacy Act, 1974 (hereinafter referred to as the principal Act), is hereby amended-

- (a) by the insertion before the definition of "corporation" of the following definition:

"'Ciskeian Medical Council' means the Ciskeian Medical Council established by section 2 of the Health Professions and Related Health Practices Act, 1984 (Act No. 36 of 1984) (Ciskei);"

- (b) by the insertion after the definition of "council" of the following definition:

"'Director-General' means the Director-General: Health or his or her nominee;"

- (c) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of Health **and Welfare**;"

- (d) by the deletion of the definition of "Republic";

- (e) by the insertion after the definition of "scheduled substance" of the

following definition:

"'South African Pharmacy Council' means the South African Pharmacy Council referred to in section 2 of this Act prior to its amendment by the Pharmacy Amendment Act, 1995;"; and by the insertion after the definition of "this Act" of the following definition:

"'Transkeian Medical Council' means the Transkeian Medical Council established by section 2 of the Medical, Allied and Supplementary Professions Act, 1976 (Act No. 30 of 1976) (Transkei);".

Substitution of heading to Chapter 1 of Act 53 of 1974

2. The following heading is hereby substituted for the heading to Chapter I of the principal Act:

"Continued Existence *Establishment and Objects, Powers and Functions of the South African Pharmacy Board Interim Pharmacy Council of South Africa"*.

Substitution of section 2 of Act 53 of 1974, as substituted by section 2 of Act 69 of 1985

3. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of Interim Pharmacy Council of South Africa

- 2. (1) There is hereby established a juristic person to be known as the Interim Pharmacy Council of South Africa and the first meeting of the council shall be convened by the Director-General.*
- (2) The head office of the council shall be situated in Pretoria."*

Amendment of section 3 of Act 53 of 1974

4. Section 3 of the principal Act is hereby amended by the deletion of the word "and" at the end of paragraph (c) and the addition of the following paragraphs:

- "(e) to make recommendations to the Minister on the constitution of a new council within a period not exceeding 24 months calculated as from the date of commencement of the Pharmacy Amendment Act, 1995; and*
- (g) to advise the Minister with regard to the amendment or adjustment of this Act in order to support the universal norms and values of the pharmaceutical profession, with greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement."*

Amendment of section 4 of Act 53 of 1974

5. Section 4 of the principal Act is hereby amended by the deletion of the proviso to paragraph (h).

Substitution of section 5 of Act 53 of 1974, as amended by section 2 of Act 20 of 1979 and section 3 of Act 69 of 1985

6. The following section is hereby substituted for section 5 of the principal Act:

"Constitution of council

5. (1) *The council shall consist of the following members, appointed by the Minister, namely-*
- (a) *nine registered pharmacists nominated by the South African Pharmacy Council from its members, three of whom shall each be a member of the staff of a university or a technikon (but not members of the same staff) at which provision is made for the training of pharmacists;*
 - (b) *three registered pharmacists nominated by the Ciskeian Medical Council;*
 - (c) *three registered pharmacists nominated by the Transkeian Medical Council;*
 - (d) *an officer of the Department of Health;*
 - (e) *one person registered as a medical practitioner in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), and who practices as such; one person registered as a nurse in terms of the Nursing Act, 1978 (Act No. 50 of 1978), and who practises as such;*
 - (g) *one person appointed on account of his or her knowledge of the law;*
 - (h) *six other persons.*
- (2) *The councils referred to in subsection (1) (a), (b) and (c) shall, within 14 days of the commencement of the Pharmacy Amendment Act, 1995, inform the Director-General in writing of the names of the persons nominated by them in terms of the relevant provisions of subsection (1).*
- (3) (a) *If a council referred to in subsection (1) (a), (b) or (c) fails to nominate persons in terms of the said provisions or fails to inform the Director-General under subsection (2) of the names of the persons so nominated, the Minister shall appoint qualified persons up to the number required, as members of the council.*
- (b) *The Director-General shall, in the case of a failure contemplated in paragraph (a), immediately inform the Minister thereof in writing.*
- (4) *The Minister shall as soon as possible after the appointment of the members of the council inform the Director-General of the names of persons appointed by him or her.*
- (5) *The names of the members of the council and the date of commencement of their period of office shall be made known by the Director-General in the Gazette as soon as possible after the constitution of the council.*
- (6) *Subject to the provisions of section 7, the members of the council shall hold office as from the date contemplated in subsection (5) until the date of constitution of a new council, but not exceeding 24 months."*

Repeal of section 6 of Act 53 of 1974

7. Section 6 of the principal Act is hereby repealed.

Amendment of section 7 of Act 53 of 1974, as amended by section 5 of Act 69 of 1985 and section 46 of Act 97 of 1986

8. Section 7 of the principal Act is hereby amended-

(a) by the substitution for paragraph (g) of subsection (t) of the following paragraph:

(g) **being an elected member, he tenders his resignation in writing to the registrar or if, being a member appointed by the Minister he or she ceases to hold any qualification necessary for his or her appointment or tenders his or her resignation in writing to the Minister and the Minister accepts his or her resignation or if, being a member appointed by the South African Medical and Dental Council referred to in section 5(1)(c) or the South African Nursing Council referred to in section 5(1)(d), he tenders his resignation in writing to the council in question; or**; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member shall be filled by appointment **or election according as the vacating member was appointed or elected by the Minister of a person nominated by the council**, and every member so appointed **or elected** shall hold office for the unexpired portion of the period for which the vacating member was appointed **or elected**."

Amendment of section 9 of Act 53 of 1974, as amended by section 3 of Act 20 of 1979

9. Section 9 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) **Eight** *The majority of the members of the council shall form a quorum at any meeting of the council.*"

Repeal of section 50A of Act 53 of 1974

10. Section 50A of the principal Act is hereby repealed.

Substitution of section 51 of Act 53 of 1974

11. The following section is hereby substituted for section 51 of the principal Act:

"Abolition of South African Pharmacy Council, and transitional provisions

51. (1) *The South African Pharmacy Council shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the South African Pharmacy Council, shall immediately vest in the council and the*

council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act.

(2) (a) *The registrar of deeds concerned shall, at the request of the council and on submission of the relevant title deeds and other documents, make the necessary entries and endorsements in respect of his or her registers and other documents in order to give effect to a transfer in terms of subsection (1).*

(b) *No transfer duty, stamp duty or other fees shall be payable in respect of such transfer, entry or endorsement."*

Substitution of long title of Act 53 of 1974

12. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To consolidate and amend the laws providing for the establishment of the South African Pharmacy Council and establish the Interim Pharmacy Council of South Africa; to provide for the training and registration of pharmacists, pharmacist interns, pharmacy students, unqualified assistants and pharmaceutical technicians; to provide for the control of the practice of the pharmaceutical profession; and to provide for matters incidental thereto. "

Repeal of laws, and savings

13. (1) Subject to the provisions of this section, the laws mentioned in the second column of the Schedule are repealed as from the date on which the South African Pharmacy Council is abolished in terms of section 51 of the principal Act as indicated in the third column of the Schedule, to the extent that such laws were in force immediately prior to the commencement of the Constitution in the various territories of the national territory of the Republic as set out in the fourth column of the Schedule.

(2) Any proclamation, notice, regulation, authorisation, rule or order issued, made, granted or done in terms of a provision of any law repealed in terms of subsection (1) shall, unless it is inconsistent with any provision of the principal Act, be deemed to have been issued, made, granted or done under the corresponding provision of the principal Act, and shall stay in force until cancelled or repealed by the Interim Pharmacy Council of South Africa, established by section 2 of the principal Act (in this section referred to as the interim council).

(3) Any registration of a person or any removal of a name from a register or any appointment or anything else done in terms of a provision of any law repealed in terms of subsection (1), shall be deemed to have been done under the principal Act.

(4) Notwithstanding the provisions of subsection (1), any inquiry, including any preliminary investigation undertaken to determine whether prima facie evidence exists which would justify such inquiry, into alleged improper or disgraceful conduct by any person, conducted by a council abolished by section 51 of the principal Act and which has not been concluded at the date of the first meeting of the interim council, shall be continued and concluded by the interim council in accordance with the provisions of the law under which the inquiry was instituted, as if such law had not been repealed.

(5) Notwithstanding the provisions of subsection (1), the interim council shall have the power to institute and conclude disciplinary proceedings under the relevant provisions of the repealed laws in accordance with the procedures as prescribed by regulations made under section 49 of the principal Act, against any person who, at any time prior to the first meeting of the interim council, is alleged to have committed an act which may have constituted improper or disgraceful conduct in terms of the provisions of the repealed laws or any regulation made thereunder: Provided that the interim council shall not institute proceedings against any person unless the nature of the contravention which the person is alleged to have committed in terms of the repealed laws or any regulation made thereunder, substantially corresponds to that of a contravention referred to in the corresponding provisions of the principal Act or any regulation made thereunder.

(6) Any act performed or decision taken by the Ciskeian Medical Council or the Transkeian Medical Council, relating to pharmacy matters, shall be deemed to have been performed or taken, as the case may be, under the corresponding provisions of the principal Act.

(7) Any person employed by the South African Pharmacy Council and any person concerned with matters with regard to pharmaceutical services employed by the Ciskeian Medical Council and the Transkeian Medical Council, immediately prior to the date referred to in subsection (1), shall be deemed to have been appointed by the interim council in terms of section 11 of the principal Act.

(8) The person who was the registrar of the South African Pharmacy Council immediately prior to the date referred to in subsection (1), shall continue to hold such office until the interim council appoints a registrar in terms of section 11 of the principal Act.

(9) The registrar referred to in subsection (8) and the persons who immediately prior to the date referred to in subsection (1) were the registrars of the Ciskeian Medical Council and the Transkeian Medical Council shall, within 14 days after the commencement of this Act furnish the Director-General: Health with the registers, minutes, financial statements and any other relevant documents of their respective councils relating to pharmaceutical matters.

(10) In this section, "South African Pharmacy Council", "Transkeian Medical Council" and "Ciskeian Medical Council" shall mean the South African Pharmacy Council, the Transkeian Medical Council and the Ciskeian Medical Council as defined in section 1 of the principal Act, respectively.

Extension of application of Act 53 of 1974

14. The principal Act, as it was in force immediately prior to the commencement of this Act in the national territory of the Republic excluding the areas which comprised the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the areas which comprised the territories declared under section 26 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be self-governing territories, shall, from the date referred to in section 13(1), apply also in those areas.

General provision

15. During the period of existence of the Interim Pharmacy Council of South Africa, established by section 2 of the principal Act, the name "South African Pharmacy Council" shall be deemed to be the name of the interim council for the purposes of the issue of certificates, diplomas and distinguishing devices and its use on letterheads or on any other place where the name of the interim council is used. \$

Short title

16. This Act shall be called the Pharmacy Amendment Act, 1995.

SCHEDULE

LAWS REPEALED BY SECTION 13

No. and year of law	Short title	Extent of repeal	Area in respect of which law is repealed
Act No. 53 of	Pharmacy Act, 1974	The whole	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 30 of 1976 (Transkei)	Medical, Allied and Supplementary Professions Act, 1976 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the Republic of Transkei
Act No. 36 of 1977	Health Laws Amendment Act, 1977	Sections 9, 10, and 11	The territory of the Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 31 of 1978 (Transkei)	Medical, Allied and Supplementary Professions Amendment Act, 1978 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the former Republic of Transkei
Act No. 20 of 1979	Pharmacy Amendment Act, 1979	The whole	The territory of the former Republic of Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu, KwaNdebele and KaNgwane
Act No. 15 of 1982 (Transkei)	Health Professions and Related Health Practices Amendment Act, 1982 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the Transkei
Act No. 22 of 1982 (Ciskei)	Licences Act, 1982 (Ciskei)	Item 54 of Schedule 1	The territory of the Ciskei
Act No. 39 of 1982	Pharmacy Amendment Act, 1982	The whole	The territory of the former self-governing territory of KaNgwane

Act No. 15 of 1983 (Transkei)	General Law Amendment Act, 1983 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the Transkei
Act No. 20 of 1983	Pharmacy Amendment Act, 1983	The whole	The territory of the former self-governing territory of KaNgwane
Act No. 24 of 1983 (Venda)	Pharmacy Amendment Act, 1983	The whole	The territory of the former Republic of Venda
Act No. 36 of 1984 (Ciskei)	Health Professions and Related Health Practices Act, 1984 (Ciskei)	In so far as it concerns the pharmaceutical profession	The territory of the Republic of Ciskei
Act No. 25 of 1985 (Transkei)	Health Laws Amendment Act, 1985 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the Transkei
Act No. 33 of 1985 (Bophuthatswana)	Health and Related Professions Act, 1985 (Bophuthatswana)	In so far as it concerns the pharmaceutical profession	The territory of the former Republic of Bophuthatswana
Act No. 14 of 1987 (Transkei)	Medical, Allied and Supplementary Professions Amendment Act, 1987 (Transkei)	In so far as it concerns the pharmaceutical profession	The territory of the former Republic of Transkei