

TASMANIA

PHARMACISTS REGISTRATION AMENDMENT BILL 2010

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – PHARMACISTS REGISTRATION ACT 2001 AMENDED

3. Principal Act
4. Long title amended
5. Section 1 amended (Short title)
6. Section 3 amended (Interpretation)
7. Section 4 amended (Act binds Crown)
8. Section 5 substituted
 5. Application of Act
9. Parts 2 and 3 substituted
 - PART 2 – Tasmanian Pharmacy Authority
 - Division 1 – The Authority*
 6. Establishment of Authority
 7. Membership of Authority
 - Division 2 – Functions, powers and objectives*
 8. Functions of Authority
 9. Powers of Authority
 10. Delegation
 11. Guidelines
 12. Compliance with Treasurer's Instructions

Division 3 – Miscellaneous

- 13. Committees
- 14. Registrar
- 15. Use by Authority of services of persons
- 16. Protection from liability

Division 4 – Finance and reports

- 17. Funds of Authority
- 18. Audit
- 19. Accounts
- 20. Annual report

- 10. Part 4: Heading amended
- 11. Part 4: Divisions 1, 2 and 3 repealed
- 12. Part 4, Division 4: Heading repealed
- 13. Section 58 substituted
 - 58. Interpretation
- 14. Section 59 amended (Authorisation and powers of inspectors)
- 15. Sections 59A and 59B inserted
 - 59A. Powers of Authority following inspection
 - 59B. Failure to comply with Authority's direction
- 16. Section 60 amended (Right of appeal)
- 17. Section 61 amended (Hearing of appeals)
- 18. Part 5A inserted
 - PART 5A – Interests in Pharmacy Businesses
 - 61A. Application of Part
 - 61B. Applying to hold an interest in pharmacy business
 - 61C. Eligibility
 - 61D. Exemptions
 - 61E. Annual renewal of eligibility certificate
- 19. Part 6: Heading amended
- 20. Section 62 substituted
 - 62. Offence to hold interest in pharmacy business &c.
- 21. Sections 63 and 64 repealed
- 22. Section 65 amended (Limitation on number of pharmacies in which person may have interest)
- 23. Section 66 substituted
 - 66. Protection of title
- 24. Section 67 substituted

- 67. Time limit for prosecuting offences
- 25. Section 68 amended (Offences of dishonesty)
- 26. Section 69 amended (Obstruction &c.)
- 27. Section 70 amended (Offences relating to inspections &c.)
- 28. Sections 70A and 70B inserted
 - 70A. Failure to notify Authority
 - 70B. Improper directions and inducements
- 29. Section 71 substituted
 - 71. Failure to comply with orders
- 30. Section 71A substituted
 - 71A. Interpretation of Part
- 31. Section 71B amended (Application of Part)
- 32. Section 71C amended (Pharmacy business premises to be registered)
- 33. Section 71D amended (Applications for registration of pharmacy business premises)
- 34. Section 71E amended (Consideration of applications for registration of pharmacy business premises)
- 35. Section 71F amended (Approval or refusal of applications)
- 36. Section 71G amended (Nature of registration of pharmacy business premises)
- 37. Section 71H amended (Registration of pharmacy business premises may be cancelled or suspended)
- 38. Section 71I amended (Registration of pharmacy business premises may be relinquished)
- 39. Section 71J amended (Premises exempt from registration requirements)
- 40. Sections 71K, 71L, 71M, 71N and 71O inserted
 - 71K. Annual renewal of registration
 - 71L. Register
 - 71M. Inspection of register
 - 71N. Publication of register &c.
 - 71O. Protection of private information
- 41. Section 72 repealed
- 42. Section 73 amended (Information about bodies corporate)
- 43. Section 73A inserted

- 73A. Power of Authority to give information to registration boards &c.
- 44. Section 74 amended (Service of documents)
 - 45. Section 75 amended (Common seal)
 - 46. Section 76 amended (Presumptions)
 - 47. Section 77 amended (Appropriation of fees, penalties and fines)
 - 48. Section 78 repealed
 - 49. Section 80 amended (Regulations)
 - 50. Section 81 amended (Administration of Act)
 - 51. Sections 82 and 83 repealed
 - 52. Schedule 1 amended (Provisions with respect to membership of Board)
 - 53. Schedule 2 amended (Provisions with respect to meetings of Board)
 - 54. Schedules 3, 4 and 5 repealed

**PART 3 – ADMINISTRATIVE ARRANGEMENTS ORDER (NO. 2) 2010
AMENDED**

- 55. Principal Order
- 56. Schedule 1 amended (Administration of Departments and Enactments)

PART 4 – LEGISLATION RESCINDED

- 57. Legislation rescinded

PART 5 – MISCELLANEOUS

- 58. Savings and transitional provisions
- 59. Repeal of Act

SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 2 – LEGISLATION RESCINDED

**PHARMACISTS REGISTRATION AMENDMENT
BILL 2010**

*(Brought in by the Minister for Health, the Honourable
Michelle Anne O'Byrne)*

A BILL FOR

An Act to amend the *Pharmacists Registration Act 2001*

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

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Pharmacists
Registration Amendment Act 2010*.

2. Commencement

This Act commences on a day to be proclaimed.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 3

Part 2 – Pharmacists Registration Act 2001 Amended

**PART 2 – PHARMACISTS REGISTRATION ACT 2001
AMENDED**

3. Principal Act

In this Part, the *Pharmacists Registration Act 2001** is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by omitting “**registration and regulation of pharmacists,**” and substituting “**regulation of pharmacy business ownership, the registration of pharmacy premises**”.

5. Section 1 amended (Short title)

Section 1 of the Principal Act is amended by omitting “Pharmacists Registration” and substituting “Pharmacy Control”.

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “Board” from the definition of “applicant” and substituting “Authority”;

*No. 90 of 2001

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 6

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- (b) by omitting the definitions of “application”, “approved”, “Board” and “certificate of registration” and substituting the following definitions:

“approved” means approved by the Authority;

“Authority” means the Tasmanian Pharmacy Authority established under section 6;

“certificate of registration” means a certificate given by the Authority under section 71F;

- (c) by omitting “Board” from the definition of “chairperson” and substituting “Authority”;

- (d) by omitting “Board” from the definition of “committee” and substituting “Authority”;

- (e) by omitting the definitions of “committee of inquiry”, “complaint”, “defendant” and “disciplinary tribunal” and substituting the following definition:

“eligibility certificate” means an eligibility certificate issued by the Authority under section 61B;

- (f) by omitting “31 December” from the definition of “financial year” and substituting “30 June”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 6

Part 2 – Pharmacists Registration Act 2001 Amended

- (g) by omitting the definitions of “foreign pharmacists law” and “formal disciplinary proceedings” and substituting the following definition:

“Friendly Society” means a body that was registered under the Friendly Societies (Tasmania) Code as a society immediately before the repeal of the *Friendly Societies (Tasmania) Act 1997*;

- (h) by inserting the following definitions after the definition of “functions”:

“guidelines” means guidelines issued by the Authority;

“Health Complaints Commissioner” means the person appointed as Health Complaints Commissioner under the *Health Complaints Act 1995*;

- (i) by omitting the definitions of “informal disciplinary proceedings”, “inquiry”, “inspection”, “interim certificate of registration”, “investigating committee” and “investigation” and substituting the following definition:

“inspection” means an inspection under section 59;

- (j) by omitting “Board” from the definition of “member” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 6

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- (k) by omitting the definitions of “pharmacists registration authority” and “pharmacy business” and substituting the following definitions:

“pharmacist” means a person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession;

“pharmacy business” means a business that involves –

- (a) the compounding and dispensing of narcotic substances and restricted substances, within the meaning of the *Poisons Act 1971*, by a pharmacist on the prescription of a medical practitioner or other health professional; and
- (b) the sale or supply of potent substances, within the meaning of the *Poisons Act 1971*, by a pharmacist; and
- (c) the sale or supply of medicinal poisons within the meaning of the *Poisons Act 1971* –

Pharmacists Registration Amendment Act 2010
Act No. of

s. 6

Part 2 – Pharmacists Registration Act 2001 Amended

but does not include a business that is carried on by a person to whom section 27 of the *Poisons Act 1971* applies;

- (l) by omitting the definition of “*Pharmacy Code*”;
- (m) by omitting the definitions of “pharmacy premises”, “recommendation” and “register” and substituting the following definitions:

“proprietary interest” means a legal or beneficial interest and includes proprietary interest as a sole proprietor, as a partner, as a director, member or a shareholder of a body corporate and as the trustee or beneficiary of a trust;

“register” means the Pharmacy Business Premises Register kept under section 71L;

- (n) by omitting the definitions of “registered pharmacist” and “Registrar” and substituting the following definition:

“registration board” means –

- (a) a board established under section 31 of the Health Practitioner Regulation National Law (Tasmania);
or

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 7

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- (b) the Medical Radiation Science Professionals Board established under the *Medical Radiation Science Professionals Registration Act 2000*;
- (o) by inserting the following definitions after the definition of “report”:
- “responsible occupier”**, in relation to pharmacy premises, means the holder of a certificate of registration in relation to the pharmacy premises;
- “responsible tribunal”** means the Health Practitioners Tribunal established under the *Health Practitioners Tribunal Act 2010*;
- (p) by omitting “Board” from the definition of “specified” and substituting “Authority”.

7. Section 4 amended (Act binds Crown)

Section 4 of the Principal Act is amended by omitting “Part 6A” and substituting “Parts 4, 5A and 6A”.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 8

Part 2 – Pharmacists Registration Act 2001 Amended

8. Section 5 substituted

Section 5 of the Principal Act is repealed and the following section is substituted:

5. Application of Act

Nothing in this Act extends to or affects –

- (a) the business of a licensed manufacturing chemist or licensed wholesale chemist, within the meaning of the *Poisons Act 1971*; or
- (b) a person who is authorised under the *Poisons Act 1971* to sell or supply a scheduled substance, within the meaning of that Act, other than a pharmacist.

9. Parts 2 and 3 substituted

Parts 2 and 3 of the Principal Act are repealed and the following Part is substituted:

PART 2 – TASMANIAN PHARMACY AUTHORITY
Division 1 – The Authority

6. Establishment of Authority

- (1) The Tasmanian Pharmacy Authority is established.
- (2) The Authority –

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 9

- (a) is a body corporate with perpetual succession; and
- (b) may acquire, hold, dispose of and otherwise deal with property; and
- (c) may sue and be sued in its corporate name.

7. Membership of Authority

- (1) The Authority consists of –
 - (a) two pharmacists nominated by the Secretary; and
 - (b) one person, who is not a pharmacist, nominated by the Secretary to represent the interests of consumers.
- (2) The members are appointed by the Minister.
- (3) The Secretary, on the recommendation of the members, must appoint a member as chairperson.
- (4) For the purpose of making nominations under subsection (1)(a), the Secretary may –
 - (a) request any body that purports to represent the professional interests of pharmacists to provide the Secretary within 28

Pharmacists Registration Amendment Act 2010
Act No. of

s. 9

Part 2 – Pharmacists Registration Act 2001 Amended

days of the date of the request
with a list of names; and

- (b) accept a recommendation from
any body that purports to
represent the professional
interests of pharmacists or from
any pharmacist; and
 - (c) accept an expression of interest
from any pharmacist.
- (5) Schedule 1 has effect with respect to
membership of the Authority.
- (6) Schedule 2 has effect with respect to
meetings of the Authority.

Division 2 – Functions, powers and objectives

8. Functions of Authority

The Authority has the following
functions:

- (a) to administer a scheme of
registration of pharmacy business
premises;
- (b) to approve the ownership of and
interests in pharmacy businesses;
- (c) to ensure that the services that
pharmacy businesses provide
from pharmacy business premises
to the public are of the highest
possible standard;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 9

-
- (d) to prosecute offences against this Act;
 - (e) to advise the Minister on matters relating to this Act;
 - (f) such other functions as are imposed on the Authority by this or any other Act or as may be prescribed.

9. Powers of Authority

The Authority has power to do all things necessary or convenient to be done in connection with the performance of its functions and, in particular, has power to –

- (a) share information with pharmacists registration authorities and other relevant bodies; and
- (b) publish and distribute information about this Act to pharmacists and other interested persons; and
- (c) do anything incidental to any of its powers.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 9

Part 2 – Pharmacists Registration Act 2001 Amended

10. Delegation

The Authority may delegate any of its functions or powers, other than this power of delegation, to a member of the Authority, the Registrar or a committee.

11. Guidelines

- (1) The Authority may issue guidelines from time to time for the purpose of providing practical guidance and direction to an applicant for registration of pharmacy business premises, or a responsible occupier in relation to the renewal of registration of pharmacy business premises, in relation to –
 - (a) the matters specified in section 71E(3); or
 - (b) any other prescribed matter.
- (2) Guidelines issued under subsection (1) are not statutory rules within the meaning of the *Rules Publication Act 1953*.

12. Compliance with Treasurer's Instructions

Treasurer's Instructions issued under the *Financial Management and Audit Act 1990* in relation to procurement and disposal apply to the Authority as if the

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 9

Authority were an Agency within the meaning of that Act.

Division 3 – Miscellaneous

13. Committees

- (1) The Authority may establish such committees as it considers necessary for the purpose of assisting it in the performance of any of its functions or the exercise of any of its powers or advising it on any matter relating to this Act.
- (2) Except as otherwise provided in this Act –
 - (a) a committee comprises such persons as the Authority appoints; and
 - (b) a member of the Authority may be a member of a committee.
- (3) A member of a committee is entitled to be paid such remuneration, including travelling and subsistence allowances, as the Authority may from time to time determine and any such remuneration is to be paid by the Authority.
- (4) The Authority may give written directions to a committee and the committee must comply with any such directions.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 9

Part 2 – Pharmacists Registration Act 2001 Amended

- (5) A committee must keep accurate minutes of its proceedings.
- (6) Except as otherwise provided in this Act, a committee may regulate its own proceedings.

14. Registrar

- (1) The Authority must appoint a Registrar.
- (2) The Registrar may be –
 - (a) an independent contractor to the Authority; or
 - (b) a person whose services are made available to the Authority pursuant to an arrangement under section 15.
- (3) The Registrar is to act as secretary to the Authority.

15. Use by Authority of services of persons

- (1) The Authority may arrange with the Head of an Agency, within the meaning of the *State Service Act 2000*, for the services of persons employed in that Agency to be made available to the Authority.
- (2) The Authority may arrange with any other person for the services of persons

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 9

employed by that person to be made available to the Authority.

- (3) The cost of making a person's services available to the Authority in accordance with this section is to be met by the Authority.

16. Protection from liability

- (1) A person engaged in the administration of this Act does not incur any personal liability for an act done or purported or omitted to be done by the person in good faith for that purpose.
- (2) A person who makes a complaint in good faith does not incur any personal liability in respect of any loss, damage or injury suffered by another person as a result of the making of the complaint.

Division 4 – Finance and reports

17. Funds of Authority

- (1) The Authority is to keep such authorised deposit-taking institution accounts as it considers necessary.
- (2) The funds of the Authority are to be paid to the credit of such of the accounts referred to in subsection (1) as the Authority determines and are to consist of –

Pharmacists Registration Amendment Act 2010
Act No. of

s. 9

Part 2 – Pharmacists Registration Act 2001 Amended

- (a) money received by way of fees, fines, penalties and charges paid to or recovered by the Authority; and
 - (b) any money borrowed by the Authority; and
 - (c) any money received by the Authority from other sources.
- (3) The funds of the Authority are to be applied –
 - (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Authority in the performance of its functions and the exercise of its powers; and
 - (b) in the payment of any remuneration payable by the Authority.
- (4) The Authority may invest any money that it is holding in any manner in which a trustee is authorised by law to invest trust funds.

18. Audit

- (1) The accounts and records of the Authority are subject to the *Audit Act 2008*.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 9

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- (2) The Authority must pay into the Consolidated Fund such amounts as the Treasurer may require towards the reasonable costs and expenses of audits conducted pursuant to this section.

19. Accounts

The Authority must keep proper accounts and records of its financial affairs and, not later than 15 August after the end of each financial year, prepare a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority for that financial year.

20. Annual report

- (1) The Authority must, not later than 31 August after the end of each financial year, give the Minister a report on its operations for that financial year.
- (2) The report is to incorporate the audited statement of accounts prepared for the relevant financial year under section 19.
- (3) The Minister may, in writing, direct the Authority to prepare the report in a particular way or to include particular information in the report.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 10

Part 2 – Pharmacists Registration Act 2001 Amended

- (4) The report may be appended to an annual report of the Department.
- (5) Subsection (4) has effect notwithstanding section 36(3) of the *State Service Act 2000* or section 27(2) of the *Financial Management and Audit Act 1990*.
- (6) If the Authority's report is not appended to an annual report of the Department, the Minister must cause the Authority's report to be laid before each House of Parliament by not later than 31 October after the end of the financial year to which it relates.

10. Part 4: Heading amended

Part 4 of the Principal Act is amended by omitting “**DISCIPLINE**” from the heading to that Part and substituting “**INSPECTIONS**”.

11. Part 4: Divisions 1, 2 and 3 repealed

Divisions 1, 2 and 3 of Part 4 of the Principal Act are repealed.

12. Part 4, Division 4: Heading repealed

Part 4 is amended by omitting the heading “*Division 4 — Miscellaneous*”.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 13

13. Section 58 substituted

Section 58 of the Principal Act is repealed and the following section is substituted:

58. Interpretation

In this Division –

“relevant party” means –

- (a) in the case of registered pharmacy business premises, the responsible occupier; and
- (b) in the case of premises sought to be registered as pharmacy business premises, the applicant for registration; and
- (c) in the case of all other premises, the person apparently in charge of those premises.

14. Section 59 amended (Authorisation and powers of inspectors)

Section 59 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

(1) If –

- (a) the Authority reasonably suspects that a person

Pharmacists Registration Amendment Act 2010
Act No. of

s. 14

Part 2 – Pharmacists Registration Act 2001 Amended

may be operating a
pharmacy business in
breach of this Act; or

- (b) the Authority reasonably
suspects that a person
may be operating a
pharmacy business from
premises that may not be
suitable for registration
having regard to the
matters set out in
section 71E; or
- (c) the Authority receives a
referral of a complaint
from the Health
Complaints
Commissioner; or
- (d) the Authority receives a
request from a registration
Board to inspect any
premises; or
- (e) premises sought to be
registered are being made
ready to be used or have
been made ready to use
for the purposes of a
pharmacy business; or
- (f) premises registered as
pharmacy business
premises have been, or

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 14

are being, renovated or altered; or

- (g) the Authority wishes to carry out a random inspection on registered pharmacy business premises for the purposes of auditing those premises against the matters set out in section 71E –

the Authority may, in writing, authorise a person to act as an inspector.

- (b) by omitting from subsection (2) “pharmacy premises of a registered pharmacist or premises at or from which a person is purporting to provide pharmacy services” and substituting “relevant premises”;
- (c) by omitting paragraph (i) from subsection (2) and substituting the following paragraph:
 - (i) require a person claiming to be a pharmacist to produce evidence of his or her registration as a pharmacist;
- (d) by omitting from subsection (2)(j) “or the *Pharmacy Code* has been contravened”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 14

Part 2 – Pharmacists Registration Act 2001 Amended

- (e) by omitting from subsection (2)(k) “Board” twice occurring and substituting “Authority”;
- (f) by omitting subsection (3) and substituting the following subsection:
 - (3) If the Authority is satisfied that for legitimate reasons a person needs access to a document that has been removed from the person’s pharmacy business premises to the custody and control of the Authority under subsection (2)(k), the Authority in its discretion may –
 - (a) grant the person reasonable access to the document or to a copy of the document; or
 - (b) provide the person with a copy or certified copy of the document; or
 - (c) retain a copy of the document and return the original to the person.
- (g) by omitting subsection (5) and substituting the following subsection:
 - (5) Following an inspection, an inspector is to furnish the Authority with a report –

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 15

- (a) detailing the nature of the inspection; and
- (b) containing copies of any photographs or documents and particulars of any test, examination or items seized during the course of the inspection; and
- (c) advising any recommendations of the inspector.

15. Sections 59A and 59B inserted

After section 59 of the Principal Act, the following sections are inserted in Part 4:

59A. Powers of Authority following inspection

- (1) Following receipt of a report from an inspector under section 59, the Authority may make a decision –
 - (a) that no further action be taken; or
 - (b) that action is required by the relevant party to ensure that the premises are suitable for use as pharmacy business premises; or
 - (c) that the premises are being unlawfully used as pharmacy business premises.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 15

Part 2 – Pharmacists Registration Act 2001 Amended

- (2) If the Authority determines that action is required by the relevant party pursuant to subsection (1)(b), the Authority may direct the relevant party to –
 - (a) carry out specified work or actions in relation to the pharmacy business premises; and
 - (b) if paragraph (a) applies, close and not trade from the pharmacy business premises until the relevant party has carried out the work or actions.
- (3) If the Authority determines that the premises are being unlawfully used as pharmacy business premises pursuant to subsection (1)(c), the Authority may take appropriate action in accordance with this Act to prevent the further unlawful use of the premises as pharmacy business premises.
- (4) The Authority is to serve a notice of its decision made under subsection (1) on the relevant party.
- (5) The written decision of the Authority is to contain the following information:
 - (a) the reason for the decision;
 - (b) in the case of a decision referred to in subsection (1)(b) –

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 15

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- (i) a general description of the work to be carried out at the premises; and
 - (ii) whether the decision includes a direction under subsection (2)(b) that the pharmacy business premises be closed until the work or actions have been carried out; and
 - (iii) the day on which the decision is to take effect; and
 - (iv) the relevant party's right to appeal against the decision to the responsible tribunal under section 60;
 - (c) in the case of a decision referred to in subsection (1)(c) –
 - (i) a statement to the effect that the premises are being unlawfully used as pharmacy business premises; and
 - (ii) a statement to the effect that the premises must not continue to be used as pharmacy business premises; and

Pharmacists Registration Amendment Act 2010
Act No. of

s. 15

Part 2 – Pharmacists Registration Act 2001 Amended

- (iii) the date upon which the notice was served; and
 - (iv) the relevant party's right to appeal against the decision to the responsible tribunal under section 60.
- (6) A decision of the Authority referred to in subsection (1)(b) or (c) takes effect notwithstanding the relevant party's right of appeal.
- (7) Nothing in subsection (6) is intended to restrict –
 - (a) a relevant party's right to appeal the decision of the Authority; or
 - (b) the responsible tribunal's power to order a stay of the decision; or
 - (c) the Authority's power to prosecute for an offence committed under this Act.
- (8) If the Authority's decision under subsection (1)(b) or (c) takes effect, the Authority may do any or all of the following:
 - (a) give notice of its decision to a registration board and such other bodies as it considers appropriate;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 15

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- (b) give notice of its decision to the Secretary;
 - (c) cause notice of its decision to be published in the *Gazette*, in any newspaper or in any professional publication related to the practice of pharmacy;
 - (d) cause notice of its decision to be published in any other way it considers appropriate.
 - (9) The Authority may not do any of the things specified in subsection (8) until –
 - (a) the expiration of the period within which the relevant party may lodge an appeal against the decision; or
 - (b) if the relevant party lodges an appeal against the decision, the decision is affirmed or varied by the responsible tribunal or the appeal is withdrawn.
 - (10) The Authority, as an alternative to taking action under subsection (2)(a) or (b), may accept an undertaking from the relevant party to take or refrain from taking specified action either generally or within a specified period of time.
 - (11) If the Authority has appointed an inspector following the referral of a complaint from the Health Complaints

Pharmacists Registration Amendment Act 2010
Act No. of

s. 15

Part 2 – Pharmacists Registration Act 2001 Amended

Commissioner, the Authority must, within a reasonable period, notify the Health Complaints Commissioner of the outcome of the inspection, including details of any notice served under subsection (4).

- (12) If the Authority has appointed an inspector following a request from a registration board, the Authority must, within a reasonable period, notify the relevant registration board of the outcome of the inspection, including details of any notice served under subsection (4).

59B. Failure to comply with Authority's direction

- (1) If the Authority –

- (a) takes action under section 59A(2)(a) or (b); or
- (b) accepts an undertaking under section 59A(10) –

and the relevant party fails to comply with the direction or undertaking, the Authority may take action under section 71H.

- (2) The Authority may not take action under section 71H until –
- (a) the expiration of the period within which the relevant party

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 16

may lodge an appeal against the decision; or

- (b) if the relevant party lodges an appeal against the decision, the decision is affirmed or varied by the responsible tribunal or the appeal is withdrawn.

16. Section 60 amended (Right of appeal)

Section 60 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Supreme Court” and substituting “responsible tribunal”;
- (b) by omitting from subsection (1) “Board to –” and substituting “Authority.”;
- (c) by omitting paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) from subsection (1);
- (d) by omitting from subsection (2) “30 days after notice of the Board’s” and substituting “28 days after notice of the Authority’s”.

17. Section 61 amended (Hearing of appeals)

Section 61 of the Principal Act is amended as follows:

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

- (a) by omitting from subsection (1) “Board, the Supreme Court” and substituting “Authority, the responsible tribunal”;
- (b) by omitting from subsection (2) “Court” and substituting “responsible tribunal”;
- (c) by omitting from subsection (2)(a) “Board” and substituting “Authority”;
- (d) by omitting from subsection (2)(b) “Board” and substituting “Authority”;
- (e) by omitting from subsection (3) “Court” and substituting “responsible tribunal”;
- (f) by omitting from subsection (3) “Board” and substituting “Authority”.

18. Part 5A inserted

After section 61 of the Principal Act, the following Part is inserted:

PART 5A – INTERESTS IN PHARMACY BUSINESSES

61A. Application of Part

- (1) This Part does not bind the Crown.
- (2) This Part does not apply to a pharmacy business located wholly within a hospital operated by an agency or instrumentality of the Crown in right of Tasmania or the Commonwealth.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 18

(3) In this Part –

“lapsing date” means –

- (a) 30 June; or
- (b) such other date as may be prescribed;

“related party” of a pharmacist means the spouse, father, mother, son, daughter, grandson, granddaughter, brother or sister of the pharmacist;

“spouse”, in relation to a pharmacist, includes a person who is in a significant relationship with the pharmacist within the meaning of the *Relationships Act 2003*.

61B. Applying to hold an interest in pharmacy business

- (1) A person, including a body corporate, that intends to hold an interest, including a proprietary interest, in a pharmacy business must apply to the Authority for a certificate deeming the person to be eligible to hold an interest in a pharmacy business, unless that person is exempt pursuant to section 61D.
- (2) An application is to be –
 - (a) in an approved form; and

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

- (b) lodged with the Authority; and
 - (c) accompanied by the prescribed application fee, if any; and
 - (d) accompanied by such information or evidence as the Authority requires.
- (3) The Authority may, upon receipt of an application, require the applicant to provide such further information or evidence as it considers necessary in order to consider the application.
- (4) The Authority may waive all or part of the application fee.
- (5) The Authority, after considering an application for an eligibility certificate may –
 - (a) issue an eligibility certificate; or
 - (b) refuse to issue an eligibility certificate.
- (6) The Authority must issue an eligibility certificate to an applicant if –
 - (a) the applicant is an eligible person within the meaning of section 61C; and
 - (b) the applicant is a fit and proper person, and in the case of a body corporate each of its members is a fit and proper person, to hold an

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 18

-
- interest in a pharmacy business;
and
 - (c) the applicant complies with subsections (2) and (3).
- (7) An eligibility certificate remains in force until the earlier of –
- (a) the lapsing date; or
 - (b) the end of the period of 14 days commencing on the day a change occurs in the matters relied upon in support of the application for the certificate.
- (8) If the Authority refuses to issue an eligibility certificate, the Authority is to give the applicant notice of –
- (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) the applicant's right of appeal against the refusal.

61C. Eligibility

- (1) A person is eligible to hold an interest, including a proprietary interest, in a pharmacy business if –
- (a) that person is a pharmacist, whether or not that pharmacist

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

has had his or her registration suspended within the meaning of the Health Practitioner Regulation National Law (Tasmania); or

- (b) in the case of a partnership, each member of the partnership is a pharmacist whether or not one or more of those pharmacists have had their registrations suspended within the meaning of the National Practitioner Regulation National Law (Tasmania); or
- (c) in the case of a body corporate, each director of the body corporate is a pharmacist and each other member of the body corporate is –
 - (i) a pharmacist; or
 - (ii) a related party of a pharmacist and –
 - (A) the controlling interest in the body corporate is held by a pharmacist or by persons who are pharmacists; and
 - (B) all the shares and the beneficial interest in those

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 18

shares are held by
pharmacists or a
related party of a
pharmacist; and

(C) control and
supervision of any
pharmacy services
carried on by the
pharmacy business
is vested in a
person who is a
pharmacist or in
persons who are
pharmacists; or

(d) the person is a body corporate
lawfully permitted to call itself a
Friendly Society and –

(i) control and supervision of
the pharmacy business is,
or will be, vested in a
pharmacist; and

(ii) that body corporate held
an interest in a pharmacy
business in this State
before the commencement
of the *Pharmacists
Registration Amendment
Act 2010*.

(2) Nothing in this section prevents a person
who is eligible under subsection (1) from
holding the eligible person's interest on

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

trust for a beneficiary if each beneficiary is –

- (a) a pharmacist; or
- (b) a related party of a pharmacist.

61D. Exemptions

A person is exempt from applying for an eligibility certificate if –

- (a) the person is a member of a body corporate that has applied for, or holds, an eligibility certificate; or
- (b) the person is a beneficiary of a trust referred to in section 61C(2) and the trustee of that trust has applied for, or holds, an eligibility certificate; or
- (c) the person is the executor, administrator or trustee of the estate of a pharmacist who has died or become bankrupt while holding an interest in a pharmacy business, and –
 - (i) the executor, administrator or trustee notifies the Authority that it has assumed the interest within 14 days of so assuming; and

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 18

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- (ii) control and supervision of any pharmacy services carried on by that pharmacy business are vested in a pharmacist; and
 - (iii) a period not exceeding the duration of the eligibility certificate held by the pharmacist prior to his or her death or bankruptcy, or such longer time as the Authority determines, has not elapsed; or
- (d) the person is an administrator or liquidator of a body corporate that has become insolvent while holding an interest in a pharmacy business and –
- (i) the administrator or liquidator notifies the Authority that it has assumed the interest within 14 days of so assuming; and
 - (ii) control and supervision of any pharmacy services carried on by that pharmacy business are vested in a pharmacist; and

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

- (iii) a period not exceeding the duration of the eligibility certificate held by the body corporate prior to its insolvency, or such longer time as the Authority determines, has not elapsed; or
- (e) the person assumes the administration of the property of a pharmacist under a mortgage, bill of sale or security interest and –
 - (i) the person notifies the Authority within 14 days of so assuming; and
 - (ii) control and supervision of any pharmacy services carried on on the property are vested in a pharmacist; and
 - (iii) a period not exceeding the duration of the eligibility certificate held by the pharmacist prior to the assumption of the pharmacist's property, or such longer time as the Authority determines, has not elapsed.

61E. Annual renewal of eligibility certificate

- (1) On or before the lapsing date each year, the holder of an eligibility certificate may apply for the renewal of the eligibility certificate.
- (2) An application for renewal of an eligibility certificate is to be –
 - (a) in an approved form; and
 - (b) lodged with the Authority; and
 - (c) accompanied by the prescribed renewal fee, if any; and
 - (d) accompanied by such information or evidence as the Authority requires.
- (3) The Authority may, upon receipt of an application for renewal of an eligibility certificate, require the applicant to provide such further information or evidence as it considers necessary in order to consider the application.
- (4) The Authority may waive all or part of the fee.
- (5) The Authority, after considering an application for renewal of an eligibility certificate may –
 - (a) renew an eligibility certificate; or

Pharmacists Registration Amendment Act 2010
Act No. of

s. 18

Part 2 – Pharmacists Registration Act 2001 Amended

- (b) refuse to renew an eligibility certificate.
- (6) The Authority may refuse to renew an eligibility certificate if –
 - (a) the applicant fails to comply with subsection (2) or (3); or
 - (b) the Authority reasonably believes that the applicant no longer meets the criteria for eligibility set out in section 61B(6); or
 - (c) the Authority is satisfied that the facts or matters relied upon in support of the original application, including, in the case of a body corporate, details of its membership, have changed; or
 - (d) the application is made more than 30 days after the lapsing date.
- (7) If the Authority refuses to renew an eligibility certificate, the Authority is to give the applicant notice of –
 - (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) the applicant's right to appeal against the refusal.
- (8) A person who applies after the lapsing date but within 30 days after the due date is liable to pay the prescribed late fee.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 19

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- (9) If a person applies for a renewal of an eligibility certificate on or before the lapsing date in accordance with subsection (1) or within 30 days after the lapsing date in accordance with subsection (8), the eligibility certificate is taken to continue until the earlier of the following:
- (a) the date upon which the Authority renews the eligibility certificate;
 - (b) the date upon which the Authority gives a notice under subsection (7).
- (10) Nothing in this section prevents a person from applying for a new eligibility certificate where the facts and matters relied upon in support of the original application, including, in the case of a body corporate, details of its membership, have changed.

19. Part 6: Heading amended

Part 6 of the Principal Act is amended by omitting “**OFFENCES**” from the heading to that Part and substituting “**PUBLIC AND PROFESSIONAL SAFEGUARDS**”.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 20

Part 2 – Pharmacists Registration Act 2001 Amended

20. Section 62 substituted

Section 62 of the Principal Act is repealed and the following section is substituted:

62. Offence to hold interest in pharmacy business &c.

- (1) A person must not hold an interest, including a proprietary interest, in a pharmacy business unless –
- (a) the person holds an eligibility certificate; or
 - (b) the person is an exempt person within the meaning of section 61D.

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

- (2) A person who holds an eligibility certificate must not hold an interest in a pharmacy business if the person knows or ought to know that the facts relied upon in support of the application for an eligibility certificate have changed and the person has not, within 14 days since the change, applied for a new eligibility certificate.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 21

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

21. Sections 63 and 64 repealed

Sections 63 and 64 of the Principal Act are repealed.

22. Section 65 amended (Limitation on number of pharmacies in which person may have interest)

Section 65(1) of the Principal Act is amended as follows:

- (a) by omitting “A registered pharmacist or a body to which section 62(3)(a)(i) applies” and substituting “A person, including a body corporate,”;
- (b) by omitting “a direct or indirect interest” and substituting “an interest, including a proprietary interest”.

23. Section 66 substituted

Section 66 of the Principal Act is repealed and the following section is substituted:

Pharmacists Registration Amendment Act 2010
Act No. of

s. 24

Part 2 – Pharmacists Registration Act 2001 Amended

66. Protection of title

A person must not, in the course of carrying on business, use the word “pharmacy” to describe the business or the premises unless the business premises are registered under this Act.

Penalty: Fine not exceeding 100 penalty units.

24. Section 67 substituted

Section 67 of the Principal Act is repealed and the following section is substituted:

67. Time limit for prosecuting offences

Proceedings for an offence against this Act may be commenced not later than 24 months after the date on which the offence is alleged to have been committed.

25. Section 68 amended (Offences of dishonesty)

Section 68 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “, inquiry or investigation”;
- (b) by omitting paragraph (b) from subsection (1);

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 26

- (c) by omitting from the penalty under subsection (1) “25 penalty units” and substituting “100 penalty units”;
- (d) by omitting subsections (2) and (3).

26. Section 69 amended (Obstruction &c.)

The penalty under section 69 of the Principal Act is amended by omitting “25 penalty units” and substituting “100 penalty units”.

27. Section 70 amended (Offences relating to inspections &c.)

Section 70 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “inquiry, investigation or formal disciplinary proceedings as required by summons” and substituting “inspection”;
- (b) by omitting paragraph (b) from subsection (1);
- (c) by omitting from subsection (1)(c) “by a committee of inquiry, investigating committee or disciplinary tribunal” and substituting “by a person conducting an inspection”;
- (d) by omitting from subsection (1)(d) “by a committee of inquiry, investigating

Pharmacists Registration Amendment Act 2010
Act No. of

s. 28

Part 2 – Pharmacists Registration Act 2001 Amended

committee or disciplinary tribunal” and substituting “by a person conducting an inspection”;

- (e) by omitting from the penalty under subsection (1) “25 penalty units” and substituting “50 penalty units”;
- (f) by omitting from the penalty under subsection (1) “2.5 penalty units” and substituting “5 penalty units”;
- (g) by omitting from subsection (2) “by a committee of inquiry, investigating committee or disciplinary tribunal” and substituting “by a person conducting an inspection”;
- (h) by omitting from subsection (3) “in an inquiry, investigation or formal disciplinary proceedings”.

28. Sections 70A and 70B inserted

After section 70 of the Principal Act, the following sections are inserted in Division 2:

70A. Failure to notify Authority

- (1) In this section –

“**relevant event**” means –

- (a) the person is charged, whether in this State or elsewhere, with an offence punishable by a term of

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 28

12 months imprisonment or more;
or

- (b) the person is convicted of, or is the subject of a finding of guilt for, an offence, whether in this State or elsewhere, punishable by imprisonment; or
 - (c) the person's authority under a law of a State or Territory to obtain, possess, sell or supply a scheduled medicine or a class of scheduled medicines is cancelled or restricted; or
 - (d) the person's registration as a pharmacist under the Health Practitioner Regulation National Law (Tasmania) is suspended or cancelled or made subject to a condition or another restriction; or
 - (e) in the case of a body corporate, the membership or particulars of the body corporate have changed.
- (2) A person who holds an eligibility certificate must, within 14 days after becoming aware that a relevant event has occurred in relation to that person, give the Authority written notice of the event.

Penalty: Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine

Pharmacists Registration Amendment Act 2010
Act No. of

s. 29

Part 2 – Pharmacists Registration Act 2001 Amended

not exceeding 10 penalty units for each day during which the offence continues.

70B. Improper directions and inducements

(1) In this section –

“**induce**” means induce by making a threat or offering approval, encouragement or a reward.

(2) A person must not direct, induce, assist or allow a person to engage in any conduct that the person knows, or ought to know, constitutes or is reasonably likely to constitute a breach of this Act.

Penalty: Fine not exceeding 100 penalty units.

29. Section 71 substituted

Section 71 of the Principal Act is repealed and the following section is substituted:

71. Failure to comply with orders

A person must not –

(a) report or otherwise disclose any proceedings of a meeting of the Authority contrary to an order of the Authority; or

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 30

- (b) report or otherwise disclose any information in relation to a meeting of the Authority contrary to an order of the Authority; or
- (c) fail to comply with any other order or direction of the Authority.

Penalty: Fine not exceeding 100 penalty units.

30. Section 71A substituted

Section 71A of the Principal Act is repealed and the following section is substituted:

71A. Interpretation of Part

In this Part –

“eligible person” means any of the following:

- (a) a person who holds an eligibility certificate;
- (b) a body that is –
 - (i) lawfully permitted to call itself a Friendly Society; and
 - (ii) lawfully providing, or

Pharmacists Registration Amendment Act 2010
Act No. of

s. 31

Part 2 – Pharmacists Registration Act 2001 Amended

proposing to
lawfully provide,
pharmacy
services;

“lapsing date” means –

- (a) 30 June; or
- (b) such other date as is prescribed.

31. Section 71B amended (Application of Part)

Section 71B(2)(a) of the Principal Act is amended by omitting “premises that are used for the purposes of a pharmacy business and” and substituting “pharmacy business premises that”.

32. Section 71C amended (Pharmacy business premises to be registered)

Section 71C of the Principal Act is amended as follows:

- (a) by omitting “After 1 September 2006, a person” and substituting “A person”;
- (b) by omitting from the penalty “25” and substituting “100”;
- (c) by omitting from the penalty “2.5” and substituting “10”.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 33

33. Section 71D amended (Applications for registration of pharmacy business premises)

Section 71D of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Authority”;
- (b) by omitting from subsection (2)(b) “Registrar” and substituting “Authority”;
- (c) by omitting from subsection (2)(d) “Board” and substituting “Authority”;
- (d) by omitting from subsection (3) “Board” and substituting “Authority”;
- (e) by omitting from subsection (4) “Board” and substituting “Authority”.

34. Section 71E amended (Consideration of applications for registration of pharmacy business premises)

Section 71E of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Authority”;
- (b) by inserting in subsection (1)(a) “subject to any conditions that the Authority thinks appropriate” after “application”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 35

Part 2 – Pharmacists Registration Act 2001 Amended

- (c) by omitting from subsection (2) “Board” and substituting “Authority”;
- (d) by omitting from subsection (2)(d) “in terms of the objectives set out in section 10,”;
- (e) by omitting from subsection (3) “Board” and substituting “Authority”;
- (f) by omitting from subsection (5) “Board” and substituting “Authority”;
- (g) by omitting from subsection (6)(b) “Board” and substituting “Authority”.

35. Section 71F amended (Approval or refusal of applications)

Section 71F of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “Board” and substituting “Authority”;
- (b) by omitting from subsection (1)(b) “Board” and substituting “Authority”;
- (c) by omitting subsection (2) and substituting the following subsection:
 - (2) The Authority, as soon as practicable after registering the premises, must give the applicant a certificate of registration, in an

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 36

approved form, in evidence of the registration.

- (d) by omitting from subsection (3) “Board” and substituting “Authority”.

36. Section 71G amended (Nature of registration of pharmacy business premises)

Section 71G of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “until it is cancelled by the Board or relinquished” and substituting “until the lapsing date”;
- (b) by omitting from subsection (2) “Board, having regard to the objectives set out in section 10, is to periodically review the” and substituting “period of”;
- (c) by inserting in subsection (2) “is not to exceed 12 months” after “premises”;
- (d) by omitting from subsection (3) “or of the pharmacy practice or pharmacy business conducted in or from the premises”.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 37

Part 2 – Pharmacists Registration Act 2001 Amended

37. Section 71H amended (Registration of pharmacy business premises may be cancelled or suspended)

Section 71H of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Authority”;
- (b) by omitting from subsection (1)(b) “the objectives set out in section 10, and”;
- (c) by omitting from subsection (1)(b) “business.” and substituting “business; or”;
- (d) by inserting the following paragraph after paragraph (b) in subsection (1):
 - (c) the responsible occupier has failed to comply with a decision of the Authority made pursuant to section 59A(1)(b) within the time specified in a notice served under section 59A(4) or, if no time is specified, within a time that the Authority considers to be reasonable.
- (e) by omitting from subsection (2) “Board” and substituting “Authority”;
- (f) by omitting from subsection (3) “Board” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 38

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- (g) by omitting from subsection (3)(c) “subsection (1)(b)” and substituting “subsection (1)(b) or (c)”;
 - (h) by omitting from subsection (5) “Board” and substituting “Authority”;
 - (i) by omitting from subsection (6) “Board” and substituting “Authority”;
 - (j) by inserting the following subsection after subsection (6):
 - (7) If the Authority cancels the registration of premises as pharmacy business premises, the responsible occupier must return the certificate of registration to the Authority within 14 days from the date that the cancellation takes effect.

Penalty: Fine not exceeding 5
penalty units.

38. Section 71I amended (Registration of pharmacy business premises may be relinquished)

Section 71I of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “Board” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 39

Part 2 – Pharmacists Registration Act 2001 Amended

(b) by omitting paragraph (b) from subsection (1) and substituting the following paragraph:

(b) returning the certificate of registration to the Authority.

(c) by omitting from subsection (2) “Board” and substituting “Authority”;

(d) by omitting from subsection (3) “Board” and substituting “Authority”.

39. Section 71J amended (Premises exempt from registration requirements)

Section 71J of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Board” and substituting “Authority”;

(b) by omitting from subsection (2) “Board’s” and substituting “Authority’s”;

(c) by omitting from subsection (2) “registered”;

(d) by omitting from subsection (3)(b) “Registrar” and substituting “Authority”;

(e) by omitting from subsection (3)(d) “Board” and substituting “Authority”;

(f) by omitting from subsection (4) “Board” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 40

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- (g) by omitting from subsection (7) “registered pharmacist” and substituting “person”;
 - (h) by omitting from subsection (8) “Board” and substituting “Authority”;
 - (i) by omitting from subsection (9) “Board” and substituting “Authority”;
 - (j) by omitting from subsection (10) “Board” twice occurring and substituting “Authority”.

40. Sections 71K, 71L, 71M, 71N and 71O inserted

After section 71J of the Principal Act, the following sections are inserted in Part 6A:

71K. Annual renewal of registration

- (1) On or before the lapsing date each year, a responsible occupier may apply for the renewal of the certificate of registration.
- (2) An application for renewal of a certificate of registration is to be –
 - (a) in an approved form; and
 - (b) lodged with the Authority; and
 - (c) accompanied by the prescribed renewal fee, if any; and

Pharmacists Registration Amendment Act 2010
Act No. of

s. 40

Part 2 – Pharmacists Registration Act 2001 Amended

- (d) supported by such information or evidence as the Authority requires.
- (3) The Authority may, upon receipt of an application for renewal of a certificate of registration, require the applicant to provide such further information or evidence as it considers necessary in order to consider the application.
- (4) The Authority may waive all or part of the fee.
- (5) The Authority, after considering an application for renewal of a certificate of registration may –
 - (a) renew the certificate of registration; or
 - (b) refuse to renew the certificate of registration.
- (6) The Authority may refuse to renew a certificate of registration if –
 - (a) the applicant fails to comply with subsection (2) or (3); or
 - (b) the Authority reasonably believes that the premises no longer meet the criteria for eligibility having regard to the matters set out in section 71E(3); or

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 40

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- (c) the Authority is satisfied that the facts or matters relied upon in support of the original application, including, in the case of a body corporate, details of its membership, have changed; or
 - (d) the application is made more than 30 days after the lapsing date.
 - (7) If the Authority refuses to renew a certificate of registration, the Authority is to give the applicant notice of –
 - (a) the refusal; and
 - (b) the reason for the refusal; and
 - (c) the applicant's right to appeal against the refusal.
 - (8) A person who applies after the lapsing date but within 30 days after that date is liable to pay the prescribed late fee.
 - (9) If a person applies for a renewal of a certificate of registration on or before the lapsing date in accordance with subsection (1) or within 30 days after the lapsing date in accordance with subsection (8), the certificate of registration is taken to continue until the earlier of the following:
 - (a) the date upon which the Authority renews the certificate;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 40

Part 2 – Pharmacists Registration Act 2001 Amended

- (b) the date upon which the Authority gives a notice under subsection (7).

71L. Register

- (1) The Authority is to keep a register called the Pharmacy Business Premises Register.
- (2) The Authority is to record the following information in the register in relation to each pharmacy business premises that it registers:
 - (a) the name of the person applying to have the premises registered;
 - (b) the date of registration of the pharmacy business premises;
 - (c) the address of the premises registered as pharmacy business premises.
- (3) The Authority is to also record the following matters in the register:
 - (a) the renewal of registration of premises as pharmacy business premises;
 - (b) the cancellation or suspension of registration of premises as pharmacy business premises.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 40

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- (4) The register may contain such other information as the Authority considers necessary or appropriate.

71M. Inspection of register

- (1) A person may, on payment of the prescribed fee, inspect the register at the office of the Authority.
- (2) A person inspecting the register may, on payment of the prescribed fee, obtain a copy or extract from the register.
- (3) The Authority may waive all or part of the fee.

71N. Publication of register &c.

- (1) The Authority may publish by notice in the *Gazette* a copy of the register or part of the register.
- (2) The Authority may provide a person with a copy of a notice referred to in subsection (1) on payment of the prescribed fee.
- (3) A notice under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.
- (4) The Authority may waive all or part of the fee.

71O. Protection of private information

Notwithstanding sections 71M and 71N –

Pharmacists Registration Amendment Act 2010
Act No. of

s. 41

Part 2 – Pharmacists Registration Act 2001 Amended

- (a) the register made available for public inspection need not include the information or all of the information referred to in section 71L(4); and
- (b) a copy of the register or a part of the register published in the *Gazette* need not include the information, or all of the information, referred to in section 71L(4).

41. Section 72 repealed

Section 72 of the Principal Act is repealed.

42. Section 73 amended (Information about bodies corporate)

Section 73 of the Principal Act is amended as follows:

- (a) by omitting “Board” from the definition of “reasonable period” in subsection (1) and substituting “Authority”;
- (b) by omitting “Board” from the definition of “relevant information” in subsection (1) and substituting “Authority”;
- (c) by omitting from subsection (2) “Board” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 43

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- (d) by omitting from subsection (2)(c) “memorandum or articles of association.” and substituting “replaceable rules or constitution;”;
 - (e) by inserting the following paragraph after paragraph (c) in subsection (2):
 - (d) particulars of any other interest, including a proprietary interest, held in the corporate provider.
 - (f) by omitting subsections (4) and (5).

43. Section 73A inserted

After section 73 of the Principal Act, the following section is inserted in Division 1:

73A. Power of Authority to give information to registration boards &c.

- (1) For the purpose of assisting a registration board to perform its functions under any Act, the Authority may make available to the board any information that it receives in the administration of this Act.
- (2) For the purpose of assisting the Health Complaints Commissioner to perform his or her functions under the *Health Complaints Act 1995*, the Authority may make available to the Commissioner any information that it receives in the administration of this Act.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 44

Part 2 – Pharmacists Registration Act 2001 Amended

44. Section 74 amended (Service of documents)

Section 74(1) of the Principal Act is amended as follows:

- (a) by omitting “Board (whether it is acting as a disciplinary tribunal or otherwise)” and substituting “Authority”;
- (b) by omitting from paragraph (a) “Board’s” and substituting “Authority’s”;
- (c) by omitting from paragraph (b) “Board’s” and substituting “Authority’s”;
- (d) by omitting from paragraph (c) “Board’s” and substituting “Authority’s”.

45. Section 75 amended (Common seal)

Section 75 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” twice occurring and substituting “Authority”;
- (b) by omitting from subsection (2) “Board” and substituting “Authority”.

46. Section 76 amended (Presumptions)

Section 76 of the Principal Act is amended as follows:

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 47

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- (a) by omitting from paragraph (a) “Board (whether acting as a disciplinary tribunal or otherwise)” and substituting “Authority”;
 - (b) by omitting from paragraph (b) “Board (whether acting as a disciplinary tribunal or otherwise)” and substituting “Authority”;
 - (c) by omitting from paragraph (c) “Board (whether acting as a disciplinary tribunal or otherwise)” and substituting “Authority”;
 - (d) by omitting from paragraph (d) “Board” and substituting “Authority”.

47. Section 77 amended (Appropriation of fees, penalties and fines)

Section 77 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Authority”;
- (b) by omitting from subsection (2) “Board” and substituting “Authority”;
- (c) by omitting from subsection (3) “section 53(1)(c)” and substituting “this Act”;
- (d) by omitting from subsection (3) “Board” and substituting “Authority”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 48

Part 2 – Pharmacists Registration Act 2001 Amended

- (e) by omitting subsection (4).

48. Section 78 repealed

Section 78 of the Principal Act is repealed.

49. Section 80 amended (Regulations)

Section 80 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “to the extent that any such matters are not provided for in the *Pharmacy Code*”;
- (b) by omitting paragraph (b) from subsection (2);
- (c) by omitting from subsection (3)(c) “Board, whether acting as a disciplinary tribunal or otherwise” and substituting “Authority”.

50. Section 81 amended (Administration of Act)

Section 81 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “and Human Services”;
- (b) by omitting from paragraph (b) “and Human Services” first occurring.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 51

51. Sections 82 and 83 repealed

Sections 82 and 83 of the Principal Act are repealed.

52. Schedule 1 amended (Provisions with respect to membership of Board)

Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting from the heading “**BOARD**” and substituting “**AUTHORITY**”;
- (b) by omitting from clause 4(2) “Governor” and substituting “Minister”;
- (c) by omitting paragraph (a) from clause 4(2) and substituting the following paragraph:
 - (a) is absent from 3 consecutive meetings of the Authority without the permission of the other members of the Authority; or
- (d) by omitting from clause 4(3) “Governor” and substituting “Minister”;
- (e) by omitting from clause 4(4) “registered”;
- (f) by omitting from clause 5 “Governor” and substituting “Minister”;

Pharmacists Registration Amendment Act 2010
Act No. of

s. 53

Part 2 – Pharmacists Registration Act 2001 Amended

- (g) by omitting from clause 6(1) “Board” three times occurring and substituting “Authority”;
- (h) by omitting from clause 6(2) “Board” first occurring and substituting “Authority”;
- (i) by omitting from clause 6(2) “Board” second occurring and substituting “Authority”;
- (j) by omitting from clause 6(2)(a) “Board” and substituting “Authority”;
- (k) by omitting from clause 6(2)(b) “Board” and substituting “Authority”;
- (l) by omitting from clause 6(3) “Board” and substituting “Authority”.

53. Schedule 2 amended (Provisions with respect to meetings of Board)

Schedule 2 to the Principal Act is amended as follows:

- (a) by omitting from the heading “**BOARD**” and substituting “**AUTHORITY**”;
- (b) by omitting from clause 1 “Board” and substituting “Authority”;
- (c) by omitting from clause 2(1) “Four” and substituting “Two”;

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 53

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- (d) by omitting from clause 2(1) “Board” and substituting “Authority”;
 - (e) by omitting from clause 2(2) “Board” twice occurring and substituting “Authority”;
 - (f) by omitting from clause 2(3) “Board” and substituting “Authority”;
 - (g) by omitting from clause 2(4) “Board” and substituting “Authority”;
 - (h) by omitting from clause 3(1) “Board” and substituting “Authority”;
 - (i) by omitting from clause 3(2) “Board” and substituting “Authority”;
 - (j) by omitting from clause 4 “Board” and substituting “Authority”;
 - (k) by omitting from clause 5(1) “Board” twice occurring and substituting “Authority”;
 - (l) by omitting from clause 5(2) “Board” first occurring and substituting “Authority”;
 - (m) by omitting from clause 5(2)(a) “Board” and substituting “Authority”;
 - (n) by omitting from clause 5(2)(b) “Board” and substituting “Authority”;
 - (o) by omitting “Board other than a meeting convened for the purposes of section 50

Pharmacists Registration Amendment Act 2010
Act No. of

s. 53

Part 2 – Pharmacists Registration Act 2001 Amended

- or a meeting of the disciplinary tribunal”
from the definition of “meeting” in
clause 6(1) and substituting “Authority”;
- (p) by omitting from clause 6(3) “Board”
and substituting “Authority”;
 - (q) by omitting from clause 6(4) “Board”
first occurring and substituting
“Authority”;
 - (r) by omitting from clause 6(4)(a) “Board”
and substituting “Authority”;
 - (s) by omitting from clause 6(4)(b)
“registered”;
 - (t) by omitting from clause 6(4)(c)
“registered”;
 - (u) by omitting from clause 7(1) “Board”
three times occurring and substituting
“Authority”;
 - (v) by omitting from clause 7(2) “Board,
except when it is acting as a disciplinary
tribunal or under section 50,” and
substituting “Authority”;
 - (w) by omitting from clause 7(4) “Board”
and substituting “Authority”;
 - (x) by omitting from clause 8 “Board” twice
occurring and substituting “Authority”.

Pharmacists Registration Amendment Act 2010
Act No. of

Part 2 – Pharmacists Registration Act 2001 Amended

s. 54

54. Schedules 3, 4 and 5 repealed

Schedules 3, 4 and 5 to the Principal Act are repealed.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 55

Part 3 – Administrative Arrangements Order (No. 2) 2010 Amended

**PART 3 – ADMINISTRATIVE ARRANGEMENTS
ORDER (NO. 2) 2010 AMENDED**

55. Principal Order

In this Part, the *Administrative Arrangements Order (No. 2) 2010** is referred to as the Principal Order.

56. Schedule 1 amended (Administration of Departments and Enactments)

Schedule 1 to the Principal Order is amended by omitting

Pharmacists Registration Act 2001

from Part 11 and substituting:

Pharmacy Control Act 2001

*S.R. 2010, No. 27

Pharmacists Registration Amendment Act 2010
Act No. of

Part 4 – Legislation rescinded

s. 57

PART 4 – LEGISLATION RESCINDED

57. Legislation rescinded

The legislation specified in Schedule 2 is rescinded.

Pharmacists Registration Amendment Act 2010
Act No. of

s. 58

Part 5 – Miscellaneous

PART 5 – MISCELLANEOUS

58. Savings and transitional provisions

The savings and transitional provisions set out in Schedule 1 have effect.

59. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.

**SCHEDULE 1 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 58

1. Interpretation

In this Schedule, unless the contrary intention appears –

“amended Act” means the *Pharmacists Registration Act 2001* as in force immediately before the commencement of the amendment Act;

“amendment Act” means the *Pharmacists Registration Amendment Act 2010*;

“commencement day” means the day proclaimed under section 2;

“former Board” means the Pharmacy Board of Tasmania as constituted under the amended Act;

“national law” means the Health Practitioner Regulation National Law (Tasmania);

“this Act” means the *Pharmacy Control Act 2001* as in force immediately after the commencement of the amendment Act.

2. Certain details in register kept by former Board

Any detail contained in the register kept by the former Board under the amended Act relating to

Pharmacists Registration Amendment Act 2010
Act No. of

sch. 1

the registration of business premises is taken to form part of the register kept by the Authority under section 71L of this Act.

3. Finances of former Board

Any funds held by the former Board that related to the registration of pharmacy business premises or for any approval of ownership of a pharmacy business, whether a statutory or administrative fee, prior to the commencement day, that have not been distributed pursuant to the terms of the national law, are to be treated as funds of the Authority pursuant to this Act.

4. Applications made prior to commencement day

An application made under Part 6A of the amended Act to the former Board before the commencement day that was not determined on or before the commencement day is taken to have been made to the Authority, but is to be dealt with under the amended Act as if the amendment Act had not commenced.

5. Pharmacy business premises registered on commencement day

- (1) Pharmacy business premises that were registered under the amended Act prior to the commencement day are taken to be registered under this Act, if, by 31 December 2010 or

within 3 months from the commencement day (whichever is later), the responsible occupier pays the prescribed transition fee to the Authority.

- (2) Upon payment of the prescribed transition fee, the Authority is to give to the responsible occupier a certificate of registration referred to in section 71F of this Act.
- (3) Where the prescribed transition fee is not paid within the period specified in subclause (1), the registration lapses and the Authority is to cancel the registration by making the appropriate entry in the register kept under this Act.

6. Pharmacy business ownership

- (1) A person, who held an interest in a pharmacy business prior to the commencement day is taken to hold an eligibility certificate under this Act, if, by 31 December 2010 or within 3 months from the commencement day (whichever is later), the person pays the prescribed transition fee to the Authority.
- (2) Upon payment of the prescribed transition fee, the Authority is to issue an eligibility certificate under section 61B of this Act.
- (3) The Authority may, if it wishes, waive the transition fee and issue an eligibility certificate.
- (4) Where the prescribed transition fee is not paid within the period specified in subclause (1) and

Pharmacists Registration Amendment Act 2010
Act No. of

sch. 1

the Authority has not waived the transition fee under subclause (3), the Authority is taken to have refused an application for an eligibility certificate under this Act.

7. Existing requirement of the former Board

Where, under section 53(5)(g) or (h) of the amended Act, a person was required by the former Board to –

- (a) carry out specified work or actions in relation to his or her pharmacy premises;
or
- (b) close the pharmacy premises until the person carried out the specified work or actions –

and the work or actions have not been completed or commenced on the commencement day, the requirement is taken to be a requirement of the Authority pursuant to section 59A of this Act.

8. Former Board members

- (1) The terms of office of the persons who, immediately before the commencement day, were members of the former Board are terminated, but those persons are, if qualified, eligible to be appointed as members of the Authority under this Act.

- (2) Service as a member of the former Board is not to be taken into account for the purposes of clause 1(2) of Schedule 1 to this Act.

9. Registrar

- (1) Notwithstanding section 14 of this Act, a person who was appointed Registrar of the former Board under the amended Act, continues to hold the appointment as Registrar of the Authority under this Act until the earlier of the following:
- (a) the day upon which the Authority appoints a new Registrar under this Act;
 - (b) 30 June 2011.
- (2) Any delegation held by the Registrar of the former Board under the amended Act continues to be held by the Registrar under this Act until the earlier of the following:
- (a) the day upon which the delegation is revoked;
 - (b) the day upon which the person ceases to be appointed as Registrar.

10. First annual report

Notwithstanding section 20 of this Act, the first annual report of the Authority is to incorporate an annual report in accordance with section 20 of the amended Act in relation to the affairs of the

Pharmacists Registration Amendment Act 2010
Act No. of

sch. 1

former Board for any period of any financial
year that has not yet been reported.

Pharmacists Registration Amendment Act 2010
Act No. of

sch. 2

SCHEDULE 2 – LEGISLATION RESCINDED

Section 57

Pharmacists Registration (Fees) Regulations 2003 (No. 138 of 2003)

Pharmacists Registration (Fees) Amendment Regulations 2005 (No. 133 of 2005)

Pharmacists Registration (Fees) Amendment Regulations 2006 (No. 45 of 2006)

Pharmacists Registration (Fees) Amendment Regulations (No. 2) 2006 (No. 130 of 2006)

Pharmacists Registration Regulations 2007 (No. 50 of 2007)

Pharmacists Registration (Fees) Amendment Regulations 2007 (No. 100 of 2007)

Pharmacists Registration (Fees) Amendment Regulations 2009 (No. 114 of 2009)