

Pharmacy Practice Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

This Bill repeals and remakes the *Pharmacy Act 1964* (**the 1964 Act**) following a National Competition Policy Review of that Act. The Bill makes numerous changes to the 1964 Act. In particular, the Bill:

- (a) includes a statement of the object of the proposed Act, and
- (b) standardises the provisions relating to registration of persons as pharmacists, the making of complaints against registered pharmacists and disciplinary proceedings in respect of such complaints, in line with the recently enacted legislation governing other health professionals in New South Wales, and
- (c) requires the registration of all holders of pecuniary interests in a pharmacy business (not just owners) as a precondition to the carrying on of that business and requires all such holders to furnish annual returns, and
- (d) regulates professional services rooms (being premises on which pharmacy businesses are carried on that involve only the preparation and packaging (and storage) of drugs for supply to individual patients or to health care facilities), and
- (e) prohibits the Pharmacy Board (**the Board**) from approving premises (for the purposes of carrying on a pharmacy business) that are within or partly within, or adjacent or connected to, a supermarket and that the public can directly access from within the premises of the supermarket, and
- (f) restricts the power to prescribe standards that must be complied with as a precondition to approval of premises to standards for or with respect to the safe and competent delivery of pharmacy services, and
- (g) allows registered pharmacists to own or have a pecuniary interest in a pharmacy business through a corporate structure (being a body corporate, all the shareholders and directors of which are registered pharmacists), and
- (h) makes it an offence for employers of registered pharmacists to direct or incite them to engage in unsatisfactory professional conduct or professional misconduct (in line with similar offences in the *Dental Practice Act 2001* and the *Optometrists Act 2002*).

The objects of the Bill are as follows:

- (a) to provide for the registration of persons as pharmacists,
- (b) to regulate the conduct of registered pharmacists,
- (c) to enable the Board to establish a code of professional conduct for registered pharmacists,
- (d) to prohibit persons or entities from indicating that an entity is a pharmacy business unless that entity is permitted under the proposed Act to carry on that business,
- (e) to regulate the carrying on of pharmacy businesses (including providing for procedures for approval of pharmacy premises and registration of holders of pecuniary interests in pharmacy businesses),
- (f) to require registered pharmacists and the holders of pecuniary interests in pharmacy businesses to furnish an annual return to the Board specifying certain information,
- (g) to require registered pharmacists to notify the Board of convictions and criminal findings for various offences, and the courts to notify the Board of certain convictions and criminal findings against registered pharmacists,
- (h) to provide for the making and referral of complaints against registered pharmacists and for disciplinary proceedings in respect of such complaints,

(i) to provide for appeals against actions of the Board and the Pharmacy Tribunal and for the review of disciplinary action taken under the proposed Act,
(j) to empower the Board to suspend, or impose conditions on, the registration of a registered pharmacist for the purpose of protecting the public,
(k) to provide for the referral of matters indicating that a registered pharmacist suffers from an impairment to an Impaired Registrants Panel,
(l) to provide for the constitution, functions and procedure of the Board, the Pharmacy Care Assessment Committee, Impaired Registrants Panels and the Pharmacy Tribunal,
(m) to prohibit employers of registered pharmacists from directing or inciting them to engage in unsatisfactory professional conduct or professional misconduct,
(n) to repeal the *Pharmacy Act 1964*, the *Pharmacy (Elections) Regulation 1998* and the *Pharmacy (General) Regulation 1998* and to enact savings, transitional and other provisions consequent on the enactment of the proposed Act.

The Bill also makes consequential amendments to other Acts and instruments, removes a redundant provision from the *Co-operatives Act 1992*, inserts a definition of **registered pharmacist** into the *Interpretation Act 1987*, amends a definition and provision concerning qualifications for registration in the *Pharmacy Act 1964* and transfers (with some modifications) a provision concerning dispensing of medicines by pharmacists from that Act into the *Poisons and Therapeutic Goods Act 1966*.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (except for Schedule 7.12 and section 156, which are to commence on the date of assent) on a day or days to be appointed by proclamation.

Clause 3 sets out the object of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 provides that notes in the proposed Act do not form part of the Act.

Clause 6 provides that the proposed Act does not limit or otherwise affect the operation of the Mutual Recognition laws of the Commonwealth.

Part 2 Registration

Clause 7 prohibits a person from indicating that the person practises, or is qualified to practise, pharmacy unless the person is registered under the proposed Act.

Clause 8 specifies the qualifications required for registration as a pharmacist.

Clause 9 defines competence to practise for the purposes of the proposed Act.

Clause 10 defines impairment for the purposes of the proposed Act.

Clause 11 specifies the circumstances in which a person is entitled to full registration as a pharmacist under the proposed Act.

Clause 12 provides for the grant of registration as a pharmacist by the Pharmacy Board and for the application to registration as a pharmacist of provisions of the *Licensing and Registration (Uniform Procedures) Act 2002*. The clause also contains a machinery provision that gives effect to Schedule 1 (Procedures for registration as a pharmacist).

Clause 13 provides for supervised registration under the proposed Act for the purpose of enabling persons who have attained the educational qualifications for registration to gain the practical experience in pharmacy required for registration.

Clause 14 provides for provisional registration under the proposed Act for persons who are entitled to registration but whose applications for registration have not been dealt with by the Board, and for persons entitled to the qualification required for registration who have not yet had the qualification conferred on them.

Clause 15 provides for temporary registration under the proposed Act in certain circumstances.

Clause 16 specifies the circumstances in which the Board may refuse to register a person under the proposed Act or impose conditions on registration.

Clause 17 specifies the effect of the removal of a person's name from the Register and the suspension of a person's registration as a pharmacist.

Clause 18 restricts the re-registration of deregistered persons and certain other persons.

Clause 19 provides for an appeal to the Pharmacy Tribunal (*the Tribunal*) where the Board has refused to grant registration or cancelled registration and in certain other cases.

Part 3 Practice of pharmacy

Division 1 Conduct of practice

Clause 20 prohibits registered pharmacists from using any title, qualification or other description in relation to the pharmacist as a pharmacist or the practice of pharmacy, other than those that the Board authorises the pharmacist to use and certain specified descriptions, and from using the title "doctor" unless the pharmacist holds a recognised university qualification entitling the pharmacist to use that title.

Clause 21 makes it an offence for a corporation or firm to be represented to be a pharmacy business unless (in the case of a corporation) it is a pharmacists' body corporate carrying on such a business or a body corporate or a friendly society carrying on such a business and permitted to do so under the proposed Act or (in the case of a firm) it is a pharmacists' partnership that carries on a pharmacy business.

Clause 22 provides that the Board may establish a code of professional conduct for registered pharmacists and provides for the use of, and procedure for the establishment of, that code.

Division 2 Control of pharmacies

Clause 23 prohibits a person from carrying on a pharmacy business at any premises unless the premises have been approved by the Board and all holders of pecuniary interests in the business are registered in the Register of Pharmacies.

Clause 24 requires persons who intend to acquire (and certain persons who have acquired) a pecuniary interest in a pharmacy business or who cease to have a pecuniary interest in such a business to notify the Board of that fact within a specified period.

Clause 25 prohibits a person from owning or otherwise having a pecuniary interest in a pharmacy business unless as a registered pharmacist, a partner in a pharmacists' partnership, a pharmacists' body corporate or a member of a pharmacists' body corporate. The prohibition is subject to specified exceptions.

Clause 26 permits friendly societies to own or otherwise have a pecuniary interest in a pharmacy business in accordance with a written approval given by the Minister for Health, permits certain friendly or other societies that were lawfully carrying on a pharmacy business under the *Pharmacy Act 1964 (the 1964 Act)* before its repeal to own or have a pecuniary interest in a pharmacy business, and provides for the continued operation under the proposed Act of approvals to carry on a pharmacy business granted to friendly or other societies under the 1964 Act.

Clause 26 also restricts to 6 the number of pharmacy businesses that a friendly or other society referred to above may own or in which it may have a pecuniary interest.

Clause 27 permits certain bodies corporate that were lawfully carrying on a pharmacy business or that had a pecuniary interest in such a business under clause 21 of the *Pharmacy (General) Regulation 1998* before its repeal to continue to so in accordance with and subject to that provision.

Clause 28 restricts to 5 the number of pharmacy businesses that a registered pharmacist may own or in which he or she may have a pecuniary interest.

Clause 29 provides that certain provisions (which may generally be characterised as provisions that interfere with the professional obligations of a pharmacist) in a lease or licence, or an arrangement that creates a security interest, in respect of a pharmacy

business, are void.

Clause 30 prohibits a pharmacy business being carried on on premises approved under the Act unless the business is in the charge of a registered pharmacist who personally supervises the carrying on of the business.

Division 3 Returns and information

Clause 31 provides that registered pharmacists, and persons who hold a pecuniary interest in a pharmacy business, must furnish annual returns to the Board containing specified information. The Board may require the return to be verified by statutory declaration.

Clause 32 provides that a registered pharmacist must notify the Board within 7 days if the pharmacist is convicted of an offence or made the subject of a sex or violence, or drug related, criminal finding for an offence or certain criminal proceedings are commenced against the pharmacist.

Clause 33 provides for the courts to notify the Board, as soon as is practicable, of the conviction of a registered pharmacist of an offence or the making of a sex or violence, or drug related, criminal finding against a pharmacist.

Clause 34 requires notice to be given to the Registrar in accordance with the regulations when a registered pharmacist becomes a mentally incapacitated person.

Clause 35 empowers the Board to direct a person to supply information relating to any pecuniary interest the person has in a pharmacy business and makes it an offence to fail or refuse to comply with such a direction or to give false or misleading information in response to such a direction.

Part 4 Complaints and disciplinary proceedings

Division 1 Interpretation

Clause 36 defines *professional misconduct*.

Clause 37 defines *unsatisfactory professional conduct*.

Clause 38 makes provision with respect to references to *complaint* in certain provisions of the proposed Act so as to make it clear that when disciplinary proceedings in relation to a complaint are taken under the proposed Act, the complaint may at that stage relate to matters arising out of the investigation of the complaint as originally made.

Division 2 Complaints

Clause 39 sets out the grounds for the making of complaints about registered pharmacists.

Clause 40 allows a complaint to be made even if the pharmacist has ceased to be registered.

Clause 41 provides that any person (including the Board) may make a complaint.

Clause 42 provides that complaints are to be made to the Board and lodged with the Registrar.

Clause 43 sets out the form in which a complaint is to be made.

Clause 44 provides that the Board is to notify the Health Care Complaints Commission of complaints under this Part of the proposed Act.

Clause 45 sets out the manner in which notice of the complaint is to be given to the pharmacist against whom the complaint is made and the circumstances in which notice is not required to be given.

Clause 46 provides that the Board may make inquiries concerning the complaint as it sees fit.

Clause 47 requires the Board to consult with the Health Care Complaints Commission before dealing with a complaint or referring it to another body under this Part of the proposed Act.

Clause 48 sets out how complaints are to be dealt with.

Clause 49 provides that serious complaints should be referred to the Tribunal. In general, the Board must refer any complaint that may warrant the suspension or deregistration of a registered pharmacist to the Tribunal.

Clause 50 allows the Board to require a registered pharmacist to undergo a medical examination.

Clause 51 sets out the persons to whom the Board must give notice of any order made under the proposed Act relating to a registered pharmacist.

Division 3 Referral of complaints to Pharmacy Care

Assessment Committee

Clause 52 provides for the kinds of complaints that can be referred to the Pharmacy Care Assessment Committee (*the Committee*).

Clause 53 provides that the Committee is to investigate complaints referred to it and may encourage the settlement of the complaint by consent and authorises the Committee to obtain such pharmaceutical, medical, legal, financial or other advice as it thinks necessary or desirable to enable it to carry out its functions.

Clause 54 provides that the Committee may require a registered pharmacist to undergo specified skills testing.

Clause 55 provides for the Committee to report and make recommendations to the Board.

Clause 56 provides that a complainant and the pharmacist against whom the complaint is made are not entitled to be legally represented at any appearance before the Committee.

Division 4 Dealing with complaint by inquiry at meeting of Board

Clause 57 provides that if the Board is to deal with a complaint at a meeting of the Board, that complaint is to be dealt with in accordance with the proposed Division and Schedule 4 (Provisions relating to procedure of Board).

Clause 58 allows the procedure for the calling of a meeting to deal with a complaint and for the conduct of the meeting, subject to the proposed Act and the regulations made under it, to be determined by the Board.

Clause 59 sets out certain provisions relating to the conduct of the meeting.

Clause 60 deals with the making of submissions to the meeting of the Board by the pharmacist about whom the complaint has been made, the Committee and the Health Care Complaints Commission.

Clause 61 provides that the Board must, within 30 days of making its decision on a complaint, make available to the complainant, the pharmacist concerned and such other persons as it sees fit, a written statement of the decision.

Clause 62 provides that a finding of the Board under the proposed Division of Part 4 of the proposed Act is admissible as evidence in any legal proceedings.

Division 5 Disciplinary powers of Board and Tribunal

Clause 63 allows the Board or the Tribunal to exercise any of the powers or combination of powers conferred under the proposed Division of Part 4 of the proposed Act if it finds the subject-matter of a complaint proved or the pharmacist concerned admits to the complaint in writing to the Board or Tribunal.

Clause 64 sets out the general disciplinary powers of the Board.

Clause 65 provides for the making of a recommendation by the Board for the suspension or deregistration of a pharmacist on the grounds that the pharmacist does not have sufficient physical and mental capacity to practise pharmacy.

Clause 66 sets out the disciplinary powers of the Tribunal.

Division 6 Powers of Board for protection of public

Clause 67 empowers the Board to suspend (for not more than 8 weeks), or impose conditions on the registration of, a registered pharmacist if it is satisfied that such action is necessary for the purpose of protecting the life, or the physical or mental health, of any person.

Clause 68 provides that the Board may at any time alter or remove conditions imposed under the proposed Division of Part 4 of the proposed Act.

Clause 69 requires the Board to refer the matter to the Health Care Complaints

Commission for investigation after taking any action under clause 67. The Commission is to investigate the matter and then refer it as a complaint to the Tribunal or to the Board to be dealt with by inquiry at a meeting of the Board.

Clause 70 sets out special provisions to be followed if the Board takes action against a registered pharmacist under clause 67 because the Board is of the opinion that the pharmacist suffers from an impairment.

Clause 71 requires the Board to notify the Chairperson of the Tribunal if the Board has suspended a registered pharmacist under clause 67.

Clause 72 provides that a period of suspension may be extended for a period or further period of not more than 8 weeks but only if the extension has been approved in writing by the Chairperson or a Deputy Chairperson of the Tribunal and the complaint about the pharmacist has not been disposed of.

Clause 73 deals with the rights and privileges of persons on the expiration of their period of suspension as a registered pharmacist.

Clause 74 deals with conditions imposed on a registered pharmacist under clause 67 where the matter is dealt with as a complaint against the pharmacist.

Clause 75 deals with conditions imposed on a registered pharmacist under clause 67 where the matter is referred to an Impaired Registrants Panel.

Part 5 Impairment

Clause 76 provides for matters to be referred by the Board to an Impaired Registrants Panel.

Clause 77 allows a person to notify the Board of any matter that the person thinks indicates that a registered pharmacist suffers from or may suffer from an impairment.

Clause 78 allows the Health Care Complaints Commission to refer to the Board any matter that indicates that a registered pharmacist suffers from or may suffer from an impairment.

Clause 79 provides that an Impaired Registrants Panel is to inquire into any matter referred to it. The Panel may request that the registered pharmacist concerned attend before the Panel for the purpose of enabling it to obtain information on the matter and make an assessment.

Clause 80 provides that an Impaired Registrants Panel is not to investigate or take any other action if it is aware that the matter is the subject of an investigation by the Health Care Complaints Commission.

Clause 81 requires the Board to notify the registered pharmacist of any proposed inquiry by an Impaired Registrants Panel.

Clause 82 allows a registered pharmacist who is the subject of a matter referred to an Impaired Registrants Panel to make oral or written representations to the Panel.

Clause 83 provides that an Impaired Registrants Panel is to make an assessment in respect of each referral to it based on its inquiry and may counsel the pharmacist concerned or recommend that he or she undertake counselling, recommend that the pharmacist consent to conditions being placed on his or her registration or to his or her suspension for a specified period or make other recommendations to the Board.

Clause 84 allows the Board to place conditions on the registration of a registered pharmacist or suspend the registered pharmacist if an Impaired Registrants Panel has recommended it and the Board is satisfied that the pharmacist has voluntarily consented to that recommendation.

Clause 85 deals with the review of conditions placed on the registration of a registered pharmacist or the suspension of the registered pharmacist where the pharmacist had voluntarily consented to the conditions or suspension.

Clause 86 provides that certain matters referred to an Impaired Registrants Panel are to be dealt with as complaints against the pharmacist concerned.

Clause 87 deals with the confidentiality of reports by an Impaired Registrants Panel to the Board.

Part 6 Appeals and review of disciplinary action

Division 1 Appeals against actions of Board

Clause 88 deals with appeals to the Tribunal against any finding of the Board or any exercise of any power of the Board under Division 5 of Part 4 of the proposed Act (Disciplinary powers of Board and Tribunal).

Clause 89 deals with appeals to the Tribunal relating to suspensions of, or impositions of conditions on, the registration of pharmacists.

Clause 90 allows an appeal with respect to a point of law to be made to the Chairperson of the Tribunal, or a Deputy Chairperson nominated by the Chairperson, when a complaint is dealt with at a meeting of the Board.

Division 2 Appeals against actions of Tribunal

Clause 91 allows a preliminary appeal (during an inquiry on a complaint by the Tribunal or before the commencement of the inquiry but after the complaint has been referred to the Tribunal) with respect to a point of law to be made to the Supreme Court by the pharmacist concerned or the complainant, but only with the leave of the Chairperson or a Deputy Chairperson.

Clause 92 deals with appeals to the Supreme Court by the pharmacist about whom a complaint has been referred to the Tribunal or the complainant regarding a decision of the Tribunal as to a point of law or the exercise of any power of the Tribunal under Division 5 of Part 4 of the proposed Act (Disciplinary powers of Board and Tribunal).

Clause 93 sets out the powers of the Supreme Court in determining an appeal.

Division 3 Review of suspension, cancellation or conditions

Clause 94 deals with the right of a person to apply for a review of an order of the Board, the Chairperson or a Deputy Chairperson, the Tribunal or the Supreme Court that the registration of the person be suspended, that the person's name be removed from the Register or not be re-registered, or that conditions be placed on the person's registration.

Clause 95 provides that the *appropriate review body* to deal with an application for review is the Tribunal except where the order being reviewed provides that it may be reviewed by the Board, in which case the Board is the appropriate review body.

Clause 96 deals with the powers of the appropriate review body on undertaking a review.

Clause 97 deals with the nature of the review.

Part 7 Pharmacy Board

Clause 98 constitutes the Pharmacy Board.

Clause 99 specifies the functions of the Board.

Clause 100 provides for the membership of the Board.

Clause 101 provides for the appointment of a Registrar and other staff necessary to enable the Board to exercise its functions.

Clause 102 enables the Board to establish committees to assist it to exercise its functions.

Clause 103 provides for the delegation of the Board's and the Registrar's functions.

Clause 104 gives effect to Schedules 3 and 4, which contain further provisions relating to the membership and procedure of the Board.

Part 8 Pharmacy Care Assessment Committee

Clause 105 constitutes the Pharmacy Care Assessment Committee.

Clause 106 specifies the functions of the Committee.

Clause 107 provides for the membership of the Committee.

Clause 108 gives effect to Schedule 5, which contains further provisions relating to the membership and procedure of the Committee.

Part 9 Impaired Registrants Panels

Clause 109 provides for the establishment of Impaired Registrants Panels for the purposes of the proposed Act. The Panels are to have, and may exercise, such jurisdiction and functions as are conferred or imposed on them by or under the

proposed Act or any other Act.

Clause 110 requires the Board, when it decides to refer a matter to an Impaired Registrants Panel, to appoint 3 persons to sit as the Panel.

Clause 111 provides that only decisions supported by 2 members of an Impaired Registrants Panel are to be considered decisions of the Panel. Disagreements between members of a Panel are to be reported to the Board.

Part 10 Pharmacy Tribunal

Division 1 Constitution of Tribunal

Clause 112 provides for the constitution of the Pharmacy Tribunal. The Tribunal is to be constituted in accordance with the proposed Act to deal with a matter referred to it or an appeal or application made to it under the proposed Act.

Clause 113 provides for experienced legal practitioners to be appointed as the Chairperson and Deputy Chairpersons of the Tribunal.

Clause 114 deals with the appointment of persons to sit on the Tribunal when a complaint or other matter is referred to the Tribunal, the Health Care Complaints Commission decides to prosecute a complaint before the Tribunal under the *Health Care Complaints Act 1993* or an appeal or application under the proposed Act to the Tribunal is lodged with the Registrar.

Clause 115 provides that the Tribunal may continue and come to a determination despite a vacancy in its membership which occurs when a matter is part-heard. This provision does not apply if it is the Chairperson or a Deputy Chairperson who vacates office, or more than one vacancy occurs.

Clause 116 deals with payment of non-legal Tribunal members.

Clause 117 provides for a seal of the Tribunal of which courts and persons acting judicially are to take notice.

Division 2 Proceedings of Tribunal

Clause 118 provides that the decision of the Chairperson or a Deputy Chairperson of the Tribunal on any question of law or procedure arising during an inquiry or appeal at which that person presides is the decision of the Tribunal for the purposes of the inquiry or appeal. All other decisions must be supported by at least 3 members of the Tribunal. In cases where 2 members support and 2 oppose a decision, the decision of the Chairperson or Deputy Chairperson presiding prevails.

Clause 119 deals with the time at which orders of the Tribunal take effect.

Clause 120 provides that a power of the Tribunal exercised under the proposed Act by the Supreme Court (except for the purposes of any appeal) is taken to have been exercised by the Tribunal.

Clause 121 requires the Tribunal to inform the Registrar of the exercise of any power under Part 4 of the proposed Act (Complaints and disciplinary proceedings).

Division 3 Inquiries, appeals etc before Tribunal

Clause 122 deals with the jurisdiction of the Tribunal to conduct an inquiry into any complaint, matter or application and to hear any appeal referred to it.

Clause 123 provides for the fixing of the time and place for the conduct of an inquiry or the hearing of an appeal and the notice that must be given of that time and place.

Clause 124 deals with the conduct of proceedings before the Tribunal.

Clause 125 enables a complainant or a registered pharmacist about whom a complaint is made to be represented by a legal practitioner or another adviser in proceedings before the Tribunal.

Clause 126 prohibits the Chairperson or a Deputy Chairperson from sitting on an inquiry or appeal concerning a matter on which he or she has already made a decision.

Clause 127 provides for adjournments and interlocutory orders.

Clause 128 requires the Tribunal to provide a written statement of its decision on an inquiry or appeal to the complainant, the pharmacist concerned and the Board. The statement must set out any findings on material questions of fact, refer to any

evidence or other material on which findings were based and give the reasons for the decision.

Clause 129 provides that the Tribunal is not required to include confidential information in its statement of a decision. If the statement would be false or misleading without the confidential information, the Tribunal is not required to provide the statement. However, a confidential information notice must then be provided indicating that confidential information is not given or the statement will not be provided.

Part 11 Prohibition against directing or inciting misconduct

Clause 130 defines certain terms for the purposes of this Part of the proposed Act.

Clause 131 makes it an offence for a person who employs a registered pharmacist to direct or incite the pharmacist to engage in conduct in the course of professional practice that would constitute unsatisfactory professional conduct or professional misconduct.

Clause 132 provides for an extended concept of employment for the purposes of this Part of the proposed Act.

Clause 133 provides for an extended concept of carrying on business for the purposes of this Part of the proposed Act.

Clause 134 empowers the Director-General of the Department of Health (*the Director-General*) to prohibit persons who have been convicted of or made the subject of a criminal finding for an offence against this Part of the proposed Act from operating a business that provides pharmacy services.

Clause 135 makes it an offence for a person to operate a business that provides pharmacy services in contravention of a prohibition under clause 134.

Clause 136 provides that a prohibition under clause 134 has no effect while an appeal is pending against the conviction or criminal finding for the offence on which the prohibition is based.

Clause 137 provides for the extended operation of a prohibition under clause 134 in certain circumstances.

Clause 138 empowers the Director-General to require certain persons to provide specified information in accordance with the clause when a corporation or the trustee of a trust is convicted of or made the subject of a criminal finding for an offence against this Part of the proposed Act.

The clause also makes it an offence to fail without reasonable excuse to comply with such a requirement or to provide false or misleading information in response to such a requirement.

Clause 139 is an evidentiary provision enabling a certificate that a person is or was prohibited under clause 134 during a specified period to be used as evidence of the facts stated in it.

Part 12 Miscellaneous

Clause 140 deals with the application of the *Criminal Records Act 1991*.

Clause 141 provides for the service of notices.

Clause 142 provides for the service of documents on the Board.

Clause 143 requires the Board, the President or an authorised member of the Board to provide on request a written statement of the reasons for a decision.

Clause 144 requires the Board to notify various health professional registration authorities of the taking of disciplinary action against a pharmacist.

Clause 145 makes it an offence to make a false entry in the Register (or, by fraud, to procure such an entry) or to make a false statement to obtain registration.

Clause 146 provides for certain documents under the hand of the Registrar and entries in the Register to be evidence in proceedings.

Clause 147 provides for the authentication of official documents of the Board by signature instead of seal.

Clause 148 empowers the Board to fix fees for services provided by the Board in carrying out its functions, provides for fees payable under the proposed Act or the regulations to be paid to the Registrar on behalf of the Board and empowers the Board to waive the payment of fees.

Clause 149 requires the Board to establish a Pharmacy Education and Research Account (for education and research in pharmacy). The clause provides for money to be paid into the Account and specifies the purposes for which that money may be expended.

Clause 150 provides for the appointment and powers of inspectors.

Clause 151 enables an inspector to obtain a search warrant.

Clause 152 provides that certain persons given functions under the proposed Act do not incur personal liability for things done in good faith in carrying out those functions.

Clause 153 provides that if a corporation contravenes any provision of the proposed Act or the regulations, each director or other person concerned in the management of the corporation is also taken to have contravened the provision.

Clause 154 provides that proceedings for offences against the proposed Act and regulations are to be dealt with summarily before a Local Court. Such proceedings are to be instituted within 2 years of the act or omission alleged to constitute the offence.

Clause 155 provides for the making of regulations under the proposed Act.

Clause 156 is a formal provision giving effect to Schedule 7 to amend certain other Acts and instruments set out in that Schedule.

Clause 157 repeals the *Pharmacy Act 1964*, the *Pharmacy (Elections) Regulation 1998*, and the *Pharmacy (General) Regulation 1998*.

Clause 158 is a formal provision giving effect to Schedule 8 (Savings and transitional provisions).

Schedule 1 Procedures for registration as a pharmacist

Schedule 1 contains provisions relating to application fees, registration procedures, inquiries concerning entitlement to and eligibility for registration, the keeping and alteration of the Register of Pharmacists, annual registration fees and removal from and alteration of the Register of Pharmacists.

Schedule 2 Procedures for approval of premises and registration of pecuniary interests

Schedule 2 contains provisions relating to applications for approval of premises (including prohibiting the Board from approving any premises that fail to comply with any prescribed standard for or with respect to the safe and competent delivery of pharmacy services or that are within or partly within, or adjacent or connected to, a supermarket and that the public can directly access from within the premises of the supermarket) or for registration of the holders of pecuniary interests in pharmacy businesses.

The Schedule also contains provisions relating to the keeping and alteration of the Register of Pharmacies and appeals against decisions of the Board to refuse to approve premises or register the holder of a pecuniary interest or to revoke an approval of premises.

Schedule 3 Provisions relating to members of Board

Schedule 3 contains provisions relating to the members of the Board.

Schedule 4 Provisions relating to procedure of Board

Schedule 4 contains provisions relating to the procedure of the Board.

Schedule 5 Provisions relating to Committee

Schedule 5 contains provisions relating to the members and procedure of the Committee.

Schedule 6 Proceedings before Tribunal

Schedule 6 contains provisions relating to proceedings before the Tribunal.

Schedule 7 Amendment of other Acts and instruments

Schedule 7 makes consequential and ancillary amendments to various Acts and instruments. Of the ancillary amendments, Schedule 7.2 removes a redundant provision from the *Co-operatives Act 1992*, Schedule 7.8 inserts a definition of **registered pharmacist** into the *Interpretation Act 1987*, Schedule 7.12 amends a definition and provision concerning qualifications for registration in the *Pharmacy Act 1964* and Schedule 7.13 transfers (with some modifications) a provision concerning dispensing of medicines by pharmacists from the *Pharmacy Act 1964* into the *Poisons and Therapeutic Goods Act 1966*.

Schedule 8 Savings and transitional provisions

Schedule 8 contains savings and transitional provisions consequent on the enactment of the proposed Act.