

The Pharmacy Act, 1948

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The Pharmacy Act, 1948

[Act 8 of 1948]

[4th March, 1948]

An Act to regulate the profession of pharmacy

Whereas it is expedient to make better provision for the regulation of the profession and practice of pharmacy and for that purpose to constitute Pharmacy Councils;

It is hereby enacted as follows:—

Statement of Objects and Reasons.—It is desirable that, as in most other countries, only persons who have attained a minimum standard of professional education should be permitted to practise the profession of Pharmacy. It is accordingly proposed to establish a Central Council of Pharmacy, which will prescribe the minimum standards of education and approved courses of study and examinations for Pharmacists, and Provincial Pharmacy Councils, which will be responsible for the maintenance of provincial registers of qualified pharmacists. It is further proposed to empower Provincial Governments to prohibit the dispensing of medicine on the prescription of a medical practitioner otherwise than by, or under the direct and personal supervision of, a registered pharmacist.

For Report of Select Committee, *see* Gazette of India, 1948, Pt. V, p. 6.

The Act has been extended to Dadra and Nagar Haveli by Regn. 6 of 1963, S. 2 and Sch. I; to Pondicherry by Regn. 7 of 1963, S. 3 and Sch. I; to Goa, Daman and Diu by Regn. 11 of 1963, S. 3 and Sch. and to Lakshadweep by Regn. 8 of 1965, S. 3 and Sch.

The Act has been modified in its application to the States of Maharashtra, Gujarat, Mysore and Rajasthan by S.O. 2814, dated 14-8-1964, Gazette of India, 1964, Extraordinary, Pt. II, S. 3(ii), p. 717 given later at p. 858.

The Act has been modified in its application to the State of Tamil Nadu by the Madras Adaptation of Laws (Central Acts) Order, 1957 and the Madras Adaptation of Laws (Central Acts) Order, 1961.

Statement of Objects and Reasons of Amendment Act 24 of 1959.—The Pharmacy Act, 1948 (8 of 1948), which provides for the regulation of the profession and practice of pharmacy has been in force since 1948. This Bill seeks to amend the Act so as to give effect to the following objects, namely—

- (1) the extension of the Act to the areas comprised in the former Part B States;
- (2) the introduction of provisions necessary to meet the situation which has arisen on account of the reorganisation of States which took effect on 1st November, 1956;
- (3) the registration of certain categories of persons. Opportunity has also been taken to make a few minor amendments in the Act, the need for which has been brought to light in the course of the administration of the Act during the last ten years.

The Notes on clauses appended hereto explain the provisions of the Bill, wherever necessary.

Statement of Objects and Reasons of Amendment Act 70 of 1976.—The Bill seeks to provide for wider representation on the Pharmacy Council of India by providing for the inclusion in that Council of the representatives of the Union territories as also of the University Grants Commission and All-India Council for Technical Education.

2. A high degree of specialisation is taking place in various branches of pharmacy. It is, therefore, necessary to induct specialists as members of the committees of the Pharmacy Council of India. The

Bill, therefore seeks to empower the Pharmacy Council of India to co-opt non-member specialists as members of its committees.

3. The accounts of the Pharmacy Council of India are at present audited by private auditors. The Bill seeks to provide that the audit of the accounts of the Pharmacy Council of India shall be made by the Comptroller and Auditor General of India or any person authorised by him.

4. A large number of persons had migrated to India from the territories now known as Bangladesh. Other persons had been repatriated from Burma, Ceylon and Uganda. Many of these persons had been engaged in the profession of pharmacy for their livelihood in the territories from which they have migrated to India but did not possess the required qualifications in pharmacy. The Bill seeks to provide facilities for the registration of these persons to enable them to earn their livelihood in India.

5. A large number of persons had qualified in examination for compounder's/dispenser's courses in accordance with the rules made under the Drugs and Cosmetics Act, 1940. These persons were not, however, registered under the Pharmacy Act, 1948. The Bill seeks to provide for their registration as pharmacists.

6. Section 42 of the Pharmacy Act empowers the State Governments to appoint a date on and from which unregistered persons shall be prohibited from dispensing medicines in that State. Many State Governments have not, however, appointed, as yet, any date under the said Section 42. In the circumstances, the Bill seeks to provide that Section 42 shall automatically come into force in a State on the expiry of a period of five years from the commencement of the Pharmacy (Amendment) Act, 1975, if the Government of the concerned State had failed to exercise the powers conferred on it by Section 42.

7. Opportunity has also been taken to carry out certain other amendments in the Act to enable the Pharmacy Council of India to discharge its functions effectively.

Statement of Objects and Reasons of Amendment Act 22 of 1982.—Section 42 of the Pharmacy Act provides that on or after such date as the State Government may by notification in the Official Gazette appoint in this behalf no person other than a registered pharmacist shall compound, prepare, mix or dispense any medicine on the prescription of a medical practitioner. The section was amended in 1976 to provide that where a State Government fails to bring the section into force from a date earlier than the 1st September, 1981 (i.e. five years from the date of coming into force of the Amendment Act of 1976), the section would automatically come into force in that State on the 1st September, 1981. So far only the State Governments of Assam, Kerala, Uttar Pradesh and the Union territory of Delhi have brought the provisions of the section into force.

2. Representations have been made that if the section were to come into force automatically with effect from 1st September, 1981, in the remaining States, certain categories of persons engaged in dispensing of drugs hitherto would become ineligible to continue their profession. In view of these representations and in order to enable the States concerned to train an adequate number of pharmacists, the sixth Joint Conference of the Central Council of Health and Central Family Welfare Council have recommended in April, 1979, that the section may be amended so that the date of automatic coming into force of the section in States in which it is not brought into force earlier is fixed as the 1st September, 1984. It is proposed to accept this recommendation.

3. The Bill seeks to achieve the above object.

CASE LAW ► Object.—Pharmacy Act, 1948 is a welfare statute. Object of this Act is to make better provisions for regulation of profession and practice of pharmacy and to prescribe qualifications for being registered as pharmacist. Compliance of the said provisions is necessary, *Rajendra Prasad Bagaria v. Pharmacy Council of State of Rajasthan*, (2012) 3 SCC 212.

CHAPTER I INTRODUCTORY

1. Short title, extent and commencement.—(1) This Act may be called the Pharmacy Act, 1948.

¹[(2) It extends to the whole of India ²[* * *].]

(3) It shall come into force at once, but Chapters III, IV and V shall take effect in a particular State from such date ³[* * *] as the State Government may, by notification in the Official Gazette, appoint in this behalf:

⁴[Provided that where on account of the territorial changes brought about by the reorganisation of States on the 1st day of November, 1956, Chapters III, IV and V have effect only in a part of a State, the said chapters shall take effect in the remaining part of that State from such date as the State Government may in like manner appoint.]

CASE LAW ▶ Issue of notification.—The necessity for the prior issue of notification by the State Government is essential for bringing into force the provisions of Chapters III, IV & V and that the mention of the time limit of three years in Section 1(3) (as it stood before its amendment by Act 24 of 1959) for bringing the said three Chapters into force was only directory. *Jagannath Das v. State of Orissa*, AIR 1968 Ori 176.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “agreement” means an agreement entered into under Section 20;
- (b) “approved” means approved by the Central Council under Section 12 or Section 14;
- ⁵[(c) ‘Central Council’ means the Pharmacy Council of India constituted under Section 3;
- (d) ‘Central Register’ means the register of pharmacists maintained by the Central Council under Section 15-A;
- (da) ‘Executive Committee’ means the Executive Committee of the Central Council or of the State Council as the context may require;
- (e) ‘Indian University’ means a University within the meaning of Section 3 of the University Grants Commission Act, 1956 (3 of 1956) and includes such other institutions, being institutions established by or under a Central Act, as the Central Government may, by notification in the Official Gazette, specify in this behalf;]
- ⁶[(f) “medical practitioner” means a person—

1. Subs. for sub-section (2) by Act 24 of 1959, S. 2 (w.e.f. 1-5-1960).

2. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, Ss. 95, 96 & Sch. V (w.e.f. 31-10-2019).

3. The words “not later than three years from the commencement of this Act,” omitted by Act 24 of 1959, S. 2 (w.e.f. 1-5-1960).

4. Ins. by Act 24 of 1959, S. 2 (w.e.f. 1-5-1960).

5. Subs. by Act 70 of 1976, S. 2 (w.e.f. 1-9-1976).

6. Subs. for clause (f) by S. 3, Act 24 of 1959 (w.e.f. 1-5-1960).

- (i) holding a qualification granted by an authority specified or notified under Section 3 of the Indian Medical Degrees Act, 1916 (7 of 1916) or specified in the Schedules to the Indian Medical Council Act, 1956, (102 of 1956), or
- (ii) registered or eligible for registration in a medical register of a State meant for the registration of persons practising the modern scientific system of medicine; or
- (iii) registered in a medical register of a State, who, although not falling within sub-clause (i) or sub-clause (ii) is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this Act; or
- (iv) registered or eligible for registration in the register of dentists for a State under the Dentists Act, 1948, (16 of 1948); or
- (v) who is engaged in the practice of veterinary medicine and who possesses qualifications approved by the State Government;]
- (g) "prescribed" means in Chapter II prescribed by regulations made under Section 18, and elsewhere prescribed by rules made under Section 46;
- ⁷[(h) 'register' means a register of pharmacists prepared and maintained under Chapter IV;
- (i) 'registered pharmacist' means a person whose name is for the time being entered in the register of the State in which he is for the time being residing or carrying on his profession or business of pharmacy;
- (j) 'State Council' means a State Council of Pharmacy constituted under Section 19, and includes a Joint State Council of Pharmacy constituted in accordance with an agreement under Section 20;
- (k) 'University Grants Commission' means the University Grants Commission established under Section 4 of the University Grants Commission Act, 1956 (3 of 1956).]
- (k) ⁸[* * *]

CHAPTER II

THE PHARMACY COUNCIL OF INDIA

3. Constitution and composition of Central Council.—The Central Government shall, as soon as may be, constitute a Central Council consisting of the following members, namely:—

- (a) six members, among whom there shall be at least one teacher of each of the subjects, pharmaceutical chemistry, pharmacy, pharmacology and pharmacognosy elected by the ⁹[University Grants Commission] from among persons on the teaching staff of an Indian University

7. Subs. by Act 70 of 1976, S. 2 (w.e.f. 1-9-1976).

8. Cl. (k) ins. by the A.O. 1950 and omitted by Act 24 of 1959, S. 3 (w.e.f. 1-5-1960).

9. Subs. by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

or a College affiliated thereto which grants a degree or diploma in pharmacy;

- (b) six members, of whom at least ¹⁰[four] shall be persons possessing a degree or diploma in, and practising pharmacy or pharmaceutical chemistry, nominated by the Central Government;
- (c) one member elected from amongst themselves by the members of the Medical Council of India;
- (d) the Director General, Health Services, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;
- ¹¹[(dd) the Drugs Controller, India, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;]
- (e) the Director of the Central Drugs Laboratory, *ex officio*;
- (f) ¹²[a representative of the University Grants Commission and a representative of the All India Council for Technical Education;]
- (g) one member to represent each ¹³[* * *] State elected ¹⁴[from amongst themselves] by the members of each State Council, who shall be a registered pharmacist;
- (h) one member to represent each ¹⁵[* * *] State nominated by ¹⁶[the] State Government, who shall be ¹⁷[* * *] a registered pharmacist:

¹⁸[Provided that for five years from the date on which the Pharmacy (Amendment) Act, 1976, comes into force the Government of each Union territory shall, instead of electing a member under clause (g), nominate one member, being a person eligible for registration under Section 31, to represent that territory.]

Explanation.—¹⁹[* * *]

4. Incorporation of Central Council.—The Council constituted under Section 3 shall be a body corporate by the name of the Pharmacy Council of India, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

5. President and Vice-President of Central Council.—(1) The President and Vice-President of the Central Council shall be elected by the members of the said Council from among themselves.

²⁰[* * *]

10. Subs. by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

11. Ins. by Act 24 of 1959, S. 4 (w.e.f. 1-5-1960).

12. Subs. by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

13. The word and letter "Part A" omitted by the Adaptation of Laws (No. 3) Order, 1956 (w.r.e.f. 1-11-1956).

14. Ins. by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

15. The word and letter "Part A" omitted by the Adaptation of Laws (No. 3) Order, 1956 (w.r.e.f. 1-11-1956).

16. Subs. for "each such" by the Adaptation of Laws (No. 3) Order, 1956 (w.r.e.f. 1-11-1956).

17. Omitted by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

18. Subs. by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

19. Omitted by Act 70 of 1976, S. 3 (w.e.f. 1-9-1976).

20. Proviso omitted by Act 24 of 1959, S. 5 (w.e.f. 1-5-1960).

(2) ²¹[The] President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as member of the Central Council, but subject to his being a member of the Central Council, he shall be eligible for re-election:

²²[Provided that if his term of office as a member of the Central Council expires before the expiry of the full term for which he is elected as President or Vice-President, he shall, if he is re-elected or re-nominated as a member of the Central Council, continue to hold office as President or Vice-President for the full term for which he is elected to such office.]

6. Mode of elections.—Elections under this chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

7. Term of office and casual vacancies.—(1) Subject to the provisions of this section, a nominated or elected member ²³[* * *], shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Central Council, or if he is elected under clause (a), (c) or (g) of Section 3, if he ceases to be a member of the teaching staff, Medical Council of India or a registered pharmacist, as the case may be.

(4) A casual vacancy in the Central Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) No act done by the Central Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Council.

(6) Members of the Central Council shall be eligible for re-nomination or re-election.

²⁴[**8. Staff, remuneration and allowances.**—The Central Council shall—

- (a) appoint a Registrar who shall act as the Secretary to that Council and who may also, if deemed expedient by that Council, act as the Treasurer thereof;

21. Subs. by Act 70 of 1976, S. 4 (w.e.f. 1-9-1976).

22. Ins. by Act 70 of 1976, S. 4 (w.e.f. 1-9-1976).

23. Omitted by Act 70 of 1976, S. 5 (w.e.f. 1-9-1976).

24. Subs. by Act 70 of 1976, S. 6 (w.e.f. 1-9-1976).

- (b) appoint such other officers and servants as that Council deems necessary to enable it to carry out its functions under this Act;
- (c) require and take from the Registrar, or any other officer or servant, such security for the due performance of his duties as that Council may consider necessary; and
- (d) with the previous sanction of the Central Government fix—
 - (i) the remuneration and allowances to be paid to the President, Vice-President, and other members of that Council,
 - (ii) the pay and allowances and other conditions of service of officers and servants of that Council.]

9. The Executive Committee.—(1) The Central Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, *ex officio*, and five other members elected by the Central Council from amongst its members.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the Central Council, but, subject to his being a member of the Central Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

²⁵**[9-A. Other Committees.**—(1) The Central Council may constitute from among its members other committees for such general or special purposes as that Council may deem necessary and for such periods not exceeding five years as it may specify, and may co-opt for a like period persons, who are not members of the Central Council, as members of such committees.

(2) The remuneration and allowances to be paid to the members of such committees shall be fixed by the Central Council with the previous sanction of the Central Government.

(3) The business before such committees shall be conducted in accordance with such regulations as may be made under this Act.]

10. Education Regulations.—(1) Subject to the provisions of this section, the Central Council may, subject to the approval of the Central Government, make regulations, to be called the Education Regulations, prescribing the minimum standard of education required for qualification as a pharmacist.

(2) In particular and without prejudice to the generality of the foregoing power, the Education Regulations may prescribe—

- (a) the nature and period of study and of practical training to be undertaken before admission to an examination;
- (b) the equipment and facilities to be provided for students undergoing approved courses of study;
- (c) the subjects of examination and the standards therein to be attained;

(d) any other conditions of admission to examinations.

(3) Copies of the draft of Education Regulations and of all subsequent amendment thereof shall be furnished by the Central Council to all State Governments, and the Central Council shall before submitting the Education Regulations or any amendment thereof, as the case may be, to the Central Government for approval under sub-section (1) take into consideration the comments of any State Government received within three months from the furnishing of the copies as aforesaid.

(4) The Education Regulations shall be published in the Official Gazette and in such other manner as the Central Council may direct.

(5) The Executive Committee shall from time to time report to the Central Council on the efficacy of the Education Regulations and may recommend to the Central Council such amendments thereof as it may think fit.

CASE LAW ► Pharmacy education.—Authority empowered to determine issues concerning approval of courses of study, minimum standards of education required for qualification as a pharmacist, registration as a pharmacist, regulation of future professional conduct, etc., held, is Pharmacy Council of India (PCI) and not AICTE. Thus, in the field of pharmacy education and more particularly so far as the recognition of degrees and diplomas of pharmacy education is concerned, the Pharmacy Act, 1948 shall prevail, *Pharmacy Council of India v. Dr S.K. Toshniwal Educational Trusts Vidarbha Institute of Pharmacy*, (2021) 10 SCC 657.

11. Application of Education Regulations to States.—At any time after the constitution of the State Council under Chapter III and after consultation with the State Council, the State Government may by notification in the Official Gazette, declare that the Education Regulations shall take effect in the State:

Provided that where no such declaration has been made, the Education Regulations shall take effect in the State on the expiry of three years from the date of the constitution of the State Council.

12. Approved courses of study and examinations.—(1) Any authority in a State ²⁶[* * *] which conducts a course of study for pharmacists may apply to the Central Council for approval of the course, and the Central Council, if satisfied, after such inquiry as it thinks fit to make, that the said course of study is in conformity with the Education Regulations, shall declare the said course of study to be an approved course of study for the purpose of admission to an approved examination for pharmacists.

(2) Any authority in a State ²⁷[* * *] which holds an examination in pharmacy may apply to the Central Council for approval of the examination, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said examination is in conformity with the Education Regulations, shall declare the said examination to be an approved examination for the purpose of qualifying for registration as a pharmacist under this Act.

26. The words "of India" omitted by the A.O. 1950 (w.e.f. 26-1-1950).

27. The words "of India" omitted by the A.O. 1950 (w.e.f. 26-1-1950).

(3) Every authority in the State ²⁸[* * *] which conducts an approved course of study or holds an approved examination shall furnish such information as the Central Council may, from time to time, require as to the courses of study and training and examination to be undergone, as to the ages at which such courses of study and examination are required to be undergone and generally as to the requisites for such courses of study and examination.

13. Withdrawal of approval.—(1) Where the Executive Committee reports to the Central Council that an approved course of study or an approved examination does not continue to be in conformity with the Education Regulations, the Central Council shall give notice to the authority concerned of its intention to take into consideration the question of withdrawing the declaration of approval accorded to the course of study or examination, as the case may be, and the said authority shall within three months from the receipt of such notice forward to the Central Council through the State Government such representation in the matter as it may wish to make.

(2) After considering any representation which may be received from the authority concerned and any observations thereon which the State Government may think fit to make, the Council may declare that the course of study or the examination shall be deemed to be approved only when completed or passed, as the case may be, before a specified date.

14. Qualifications granted outside the territories to which this Act extends.—The Central Council, if it is satisfied that any qualification in pharmacy granted by an authority outside the ²⁹[territories to which this Act extends] affords a sufficient guarantee of the requisite skill and knowledge, may declare such qualification to be an approved qualification for the purpose of qualifying for registration under this Act, and may for reasons appearing to it sufficient at any time declare that such qualification shall be deemed ³⁰[subject to such additional condition, if any, as may be specified by the Central Council] to be approved only when granted before or after a specified date:

Provided that no person other than a ³¹[citizen of India] possessing such qualification shall be deemed to be qualified for registration unless, by the law and practice of the State or country in which the qualification is granted, persons of Indian origin holding such qualification are permitted to enter and practise the profession of pharmacy.

15. Mode of declaration.—All declarations under Section 12, Section 13 or Section 14 shall be made by resolution passed at a meeting of the Central Council, and shall have effect as soon as they are published in the Official Gazette.

28. The words "of India" omitted by the A.O. 1950 (w.e.f. 26-1-1950).

29. Subs. for "Part A States and Part C States" by the Adaptation of Laws (No. 3) Order, 1956 (w.r.e.f. 1-11-1956), which had been subs. for "Provinces of India" by the A.O. 1950 (w.e.f. 26-1-1950).

30. Ins. by Act 70 of 1976, S. 8 (w.e.f. 1-9-1976).

31. Subs. for "British subject of Indian domicile" by the A.O. 1950 (w.e.f. 26-1-1950).

³²[**15-A. The Central Register.**—(1) The Central Council shall cause to be maintained in the prescribed manner a register of pharmacists to be known as the Central Register, which shall contain the names of all persons for the time being entered in the register for a State.

(2) Each State Council shall supply to the Central Council five copies of register for the State as soon as may be after the first day of April of each year, and the Registrar of each State Council shall inform the Central Council, without delay, all additions to and other amendments in the register for the State made from time to time.

(3) It shall be the duty of the Registrar of the Central Council to keep the Central Register in accordance with the orders made by the Central Council, and from time to time to revise the Central Register and publish it in the Gazette of India.

(4) The Central Register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (1 of 1872), and may be proved by the production of a copy of the Register as published in the Gazette of India.

15-B. Registration in the Central Register.—The Registrar of the Central Council shall, on receipt of the report of registration of a person in the register for a State, enter his name in the Central Register.]

16. Inspection.—(1) The Executive Committee may appoint such number of Inspectors as it may deem requisite for the purposes of this chapter.

(2) An Inspector may—

- (a) inspect any institution which provides an approved course of study;
- (b) attend at any approved examination;
- (c) inspect any institution whose authorities have applied for the approval of its course of study or examination under this Chapter, and attend at any examination of such institution.

(3) An Inspector attending at any examination under sub-section (2) shall not interfere with the conduct of the examination, but he shall report to the Executive Committee on the sufficiency of every examination he attends and on any other matter in regard to which the Executive Committee may require him to report.

(4) The Executive Committee shall forward a copy of every such report to the authority or institution concerned, and shall also forward a copy together with any comments thereon, which the said authority or institution may have made, to the Central Government and to the Government of the State in which the authority or institution is situated.

17. Information to be furnished.—(1) The Central Council shall furnish copies of its minutes and of the minutes of the Executive Committee and an annual report of its activities ³³[* * *] to the Central Government.

32. Ins. by Act 70 of 1976, S. 9 (w.e.f. 1-9-1976).

33. Omitted by Act 70 of 1976, S. 10 (w.e.f. 1-9-1976).

(2) The Central Government may publish in such manner as it may think fit any report, ³⁴[or copy] furnished to it under this section or under Section 16.

³⁵[**17-A. Accounts and audit.**—(1) The Central Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Council shall be audited annually by the Comptroller and Auditor-General of India or any person authorised by him in this behalf and any expenditure incurred by him or any person so authorised in connection with such audit shall be payable by the Central Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Central Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers.

(4) The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Council which shall forward the same with its comments to the Central Government.]

18. Power to make regulations.—(1) The Central Council may, with the approval of the Central Government, ³⁶[by notification in the Official Gazette,] make regulations consistent with this Act to carry out the purposes of this chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- ³⁷[(a) the management of the property of the Central Council;]
- (b) the manner in which elections under this chapter shall be conducted;
- (c) the summoning and holding of meetings of the Central Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;
- (d) the functions of the Executive Committee, the summoning and holding meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum;
- (e) the powers and duties of the President and Vice-President;

34. *Subs.* by Act 70 of 1976, S. 10 (w.e.f. 1-9-1976).

35. *Ins.* by Act 70 of 1976, S. 11 (w.e.f. 1-9-1976).

36. *Ins.* by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).

37. *Subs.* by Act 70 of 1976, S. 12 (w.e.f. 1-9-1976).

- (f) the qualifications, the term of office and the powers and duties of the ³⁸[Registrar], Secretary, Inspectors and other officers and servants of the Central Council, including the amount and nature of the security to be furnished by the ³⁹[Registrar or any other officer or servant].
- ⁴⁰[(g) the manner in which the Central Register shall be maintained and given publicity;
- (h) constitution and functions of the committees other than Executive Committee, the summoning and holding of meetings thereof, the time and place at which such meetings shall be held, and the number of members necessary to constitute the quorum.]

(3) Until regulations are made by the Central Council under this section, the President may, with the previous sanction of the Central Government, make such regulations under this section, including those to provide for the manner in which the first elections to the Central Council shall be conducted, as may be necessary for carrying into effect the provisions of this chapter, and any regulations so made may be altered or rescinded by the Central Council in exercise of its powers under this section.

⁴¹[(4) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

CHAPTER III

STATE PHARMACY COUNCILS

19. Constitution and composition of State Councils.—Except where a Joint State Council is constituted in accordance with an agreement made under Section 20, the State Government shall constitute a State Council consisting of the following members, namely:—

- (a) six members, elected from amongst themselves by registered pharmacists of the State;
- (b) five members, of whom at least ⁴²[three] shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or ⁴³[registered pharmacists], nominated by the State Government;

38. *Ins.* by Act 70 of 1976, S. 12 (w.e.f. 1-9-1976).

39. *Subs.* by Act 70 of 1976, S. 12 (w.e.f. 1-9-1976).

40. *Ins.* by Act 70 of 1976, S. 12 (w.e.f. 1-9-1976).

41. *Ins.* by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).

42. *Subs.* by Act 70 of 1976, S. 13 (w.e.f. 1-9-1976).

- (c) one member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of the State, as the case may be;
- (d) the chief administrative medical officer of the State *ex officio* or if he is unable to attend any meeting, a person authorized by him in writing to do so;
- ⁴⁴[(*dd*)the officer-in-charge of drugs control organization of the State under the ⁴⁵[Drugs and Cosmetics Act, 1940] (23 of 1940) *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;]
- (e) the Government Analyst under the ⁴⁶[Drugs and Cosmetics Act, 1940] (23 of 1940), *ex officio*, or where there is more than one, such one as the State Government may appoint in this behalf:

Provided that where an agreement is made under clause (b) of sub-section (1) of Section 20, the agreement may provide that the State Council to serve the needs of the other participating State also shall be augmented by not more than two members, of whom at least one shall at all times be a person possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or a ⁴⁷[registered pharmacist], nominated by the Government of each of the said other participating States, and where the agreement so provides, the composition of the State Council shall be deemed to be augmented accordingly.

20. Inter-State agreements.—(1) Two or more State Governments may enter into an agreement to be in force for such period and to be subject to renewal for such further periods, if any, as may be specified in the agreement, to provide—

- (a) for the constitution of a Joint State Council for all the participating States, or
- (b) that the State Council of one State shall serve the needs of the other participating States.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

- (a) provide for the apportionment between the participating States of the expenditure in connection with the State Council or Joint State Council;
- (b) determine which of the participating State Governments shall exercise the several functions of the State Government under this Act, and the references in this Act to the State Government shall be construed accordingly;
- (c) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act;

43. Subs. by Act 70 of 1976, S. 13 (w.e.f. 1-9-1976).

44. Ins. by Act 24 of 1959, S. 7 (w.e.f. 1-5-1960).

45. Subs. by Act 70 of 1976, S. 13 (w.e.f. 1-9-1976).

46. Subs. by Act 70 of 1976, S. 13 (w.e.f. 1-9-1976).

47. Subs. by Act 70 of 1976, S. 13 (w.e.f. 1-9-1976).

- (d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the Official Gazette of the participating States.

21. Composition of Joint State Councils.—(1) A Joint State Council shall consist of the following members, namely:—

- (a) such number of members, being not less than three and not more than five as the agreement shall provide elected from amongst themselves by the registered pharmacists of each of the participating States;
- (b) such number of members, being not less than two and not more than four as the agreement shall provide, nominated by each participating State Government;
- (c) one member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of each participating State, as the case may be;
- (d) the chief administrative medical officer of each participating State, *ex officio*, or if he is unable to attend any meeting, a person authorised by him in writing to do so;
- ⁴⁸[(dd) the officer-in-charge of drugs control organisation of each participating State under the ⁴⁹[Drugs and Cosmetics Act, 1940] (23 of 1940) *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;]
- (e) the Government Analyst under the ⁵⁰[Drugs and Cosmetic Act, 1940] (23 of 1940), of each participating State, *ex officio*, or where there is more than one in any such State, such one as the State Government may appoint in this behalf.

(2) The agreement may provide that within the limits specified in clauses (a) and (b) of sub-section (1), the number of members to be elected or nominated under those clauses may or may not be the same in respect of each participating State.

(3) Of the members nominated by each State Government under clause (b) of sub-section (1), ⁵¹[more than] half shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or ⁵²[registered pharmacist].

22. Incorporation of State Councils.—Every State Council shall be a body corporate by such name as may be notified by the State Government in the Official Gazette or, in the case of a Joint State Council, as may be determined in the agreement, having perpetual succession and a common seal, with power to acquire

48. Ins. by Act 24 of 1959, S. 8 (w.e.f. 1-5-1960).

49. Subs. by Act 70 of 1976, S. 14 (w.e.f. 1-9-1976).

50. Subs. by Act 70 of 1976, S. 14 (w.e.f. 1-9-1976).

51. Subs. by Act 70 of 1976, S. 14 (w.e.f. 1-9-1976).

52. Subs. by Act 70 of 1976, S. 14 (w.e.f. 1-9-1976).

or hold property both movable and immovable and shall by the said name sue and be sued.

23. President and Vice-President of State Council.—(1) The President and Vice-President of the State Council shall be elected by the members from amongst themselves:

Provided that for five years from the first constitution of the State Council the President shall be a person nominated by the State Government who shall hold office at the pleasure of the State Government and where he is not already a member, shall be a member of the State Council in addition to the members referred to in Section 19 or Section 21, as the case may be.

(2) ⁵³[The] President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as a member of the State Council, but subject to his being a member to the State Council, he shall be eligible for re-election:

⁵⁴[Provided that if his term of office as a member of the State Council expires before the expiry of the full term for which he is elected as President or Vice-President, he shall, if he is re-elected or re-nominated as a member of the State Council, continue to hold office for the full term for which he is elected as President or Vice-President.]

24. Mode of elections.—Elections under this chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the State Government whose decision shall be final.

25. Term of office and casual vacancies.—(1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse sufficient in the opinion of the State Council from three consecutive meetings of the State Council, or if he is elected under clause (a) or (c) of Section 19 or 21, if he ceases to be a registered pharmacist or ceases to be a member of the Medical Council or Council of Medical Registration of the State, as the case may be.

(4) A casual vacancy in the State Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected.

53. Subs. by Act 70 of 1976, S. 15 (w.e.f. 1-9-1976).

54. Ins. by Act 70 of 1976, S. 15 (w.e.f. 1-9-1976).

(5) No act done by the State Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the State Council.

(6) Members of the State Council shall be eligible for re-nomination or re-election.

26. Staff, remuneration and allowances.—The State Council may, with the previous sanction of the State Government,—

- (a) appoint a Registrar who shall also act as Secretary and, if so decided by the State Council, Treasurer, of the State Council;
- (b) appoint such other officers and servants as may be required to enable the State Council to carry out its functions under this Act;
- (c) fix the salaries and allowances and other conditions of service of the Secretary and other officers and servants of the State Council;
- (d) fix the rates of allowances payable to members of the State Council:

Provided that for the first four years from the first constitution of the State Council, the Registrar shall be a person appointed by the State Government, who shall hold office during the pleasure of the State Government.

⁵⁵[**26-A. Inspection.**—(1) A State Council may, with the previous sanction of the State Government, appoint Inspectors having the prescribed qualifications for the purposes of Chapters III, IV and V of this Act.

(2) An Inspector may—

- (a) inspect any premises where drugs are compounded or dispensed and submit a written report to the Registrar;
- (b) enquire whether a person who is engaged in compounding or dispensing of drugs is a registered pharmacist;
- (c) investigate any complaint made in writing in respect of any contravention of this Act and report to the Registrar;
- (d) institute prosecution under the order of the Executive Committee of the State Council;
- (e) exercise such other powers as may be necessary for carrying out the purposes of Chapters III, IV and V of this Act or any rules made thereunder.

(3) Any person wilfully obstructing an Inspector in the exercise of the powers conferred on him by or under this Act or any rules made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees, or with both.

(4) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).]

27. The Executive Committee.—(1) The State Council shall, as soon as may be, constitute an Executive Committee consisting of the President (who shall be the Chairman of the Executive Committee) and Vice-President, *ex officio*, and such

55. Ins. by Act 70 of 1976, S. 16 (w.e.f. 1-9-1976).

number of other members elected by the State Council from amongst themselves as may be prescribed.

(2) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the State Council, but, subject to his being a member of the State Council, he shall be eligible for re-election.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

28. Information to be furnished.—(1) The State Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee, and abstracts of its accounts to the State Government as the State Government may from time to time require and copies thereof shall be sent to the Central Council.

(2) The State Government may publish, in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section.

CHAPTER IV

REGISTRATION OF PHARMACISTS

29. Preparation and maintenance of register.—As soon as may be after this chapter has taken effect in any State, the State Government shall cause to be prepared in the manner hereinafter provided a register of pharmacists for the State.

(2) The State Council shall as soon as possible after it is constituted assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register shall include the following particulars, namely:—

- (a) the full name and residential address of the registered person;
- (b) the date of his first admission to the register;
- (c) his qualifications for registration;
- (d) his professional address, and if he is employed by any person, the name of such person;
- (e) such further particulars as may be prescribed.

30. Preparation of first register.—For the purpose of preparing the first register, the State Government shall by notification in the Official Gazette constitute a Registration Tribunal consisting of three persons, and shall also appoint a Registrar who shall act as Secretary of the Registration Tribunal.

(2) The State Government shall, by the same or a like notification, appoint a date on or before which applications for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under Section 31, shall direct the entry of the name of the applicant on the register.

(4) The first register so prepared shall thereafter be published in such manner as the State Government may direct, and any person aggrieved by a decision

of the Registration Tribunal expressed or implied in the register as so published may, within sixty days from the date of such publication, appeal to the authority appointed by the State Government in this behalf by notification in the Official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the constitution of the State Council, the register shall be given into its custody, and the State Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the State Council.

CASE LAW ▶ Registration of Pharmacists.—Section 31 prescribed interim qualifications for Pharmacists whose names would be entered in First Register. First Register so prepared should be published by State Government and would form a permanent register for all Pharmacists in State of Bihar. Its custody should be given to State Council. Section 31 interim qualifications can be relied on for preparation of First Register till Education Regulations prescribing qualifications have not come into force. Thereafter State of Bihar was precluded from preparing First Register. All subsequent registration should be done as per qualifications prescribed in Education Regulations. After Pharmacy Act, 1948 came into force, State of Bihar constituted the Registration Tribunal which duly prepared the First Register of Pharmacists and the State Government duly published same as per Section 30(4), Pharmacy Act, 1948. As Education Regulations have already been enacted and State of Bihar is precluded from preparing First Register, the State of Jharkhand is equally not entitled to prepare the same by same logic as the Pharmacy Act, 1948 as applicable to State of Bihar continues to apply to State of Jharkhand in view of Sections 84 and 85, *Ranjan Sinha v. Ajay Kumar Vishwakarma*, (2017) 14 SCC 774.

In view of law laid down in *Ranjan Sinha*, (2017) 14 SCC 774, constitution of the Registration Tribunal by State of Chhattisgarh and consequent registrations carried out by the aforesaid Registration Tribunal, held, invalid and illegal. Proper procedure for constitution of First Register and registration of Pharmacists already registered in First Register of M.P., stated with clarifications, *Pharmacy Council of India v. Atmaram Dariyani*, (2018) 11 SCC 341.

31. Qualifications for entry on first register.—⁵⁶[A person who has attained the age of eighteen years shall be entitled] on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy in the State and if he—

- (a) holds a degree or diploma in pharmacy or pharmaceutical chemistry or a chemist and druggist diploma of an Indian University or a State Government, as the case may be, or a prescribed qualification granted by an authority outside ⁵⁷[* * *] India, or
- (b) holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry, and has been engaged in the compounding

56. Subs. for "A person shall be entitled" by Act 23 of 1959, S. 9 (w.e.f. 1-5-1960).

57. The words "the Provinces of" omitted by the A.O. 1950 (w.e.f. 26-1-1950).

of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years, or

- (c) has passed an examination recognised as adequate by the State Government for compounders or dispensers, or
- (d) has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than five years prior to the date notified under sub-section (2) of Section 30.

32. Qualifications for subsequent registration.—(1) After the date appointed under sub-section (2) of Section 30 and before the Education Regulations have, by or under Section 11, taken effect in the State, ⁵⁸[a person who has attained the age of eighteen years shall on payment of the prescribed fee] be entitled to have his name entered in the register if he resides or carries on the business or profession of pharmacy in the State and if he—

- (a) satisfies the conditions prescribed with the prior approval of the Central Council, or where no conditions have been prescribed, the conditions entitling a person to have his name entered on the first register as set out in Section 31, or
- (b) is a registered pharmacist in another State, or
- (c) possesses a qualification approved under Section 14:

Provided that no person shall be entitled ⁵⁹[under clause (a) or clause (c)] to have his name entered on the register unless he has passed a matriculation examination or an examination prescribed as being equivalent to a matriculation examination.

(2) After the Education Regulations have by or under Section 11 taken effect in the State, a person shall on payment of the prescribed fee be entitled to have his name entered on the register if he has attained the age of ⁶⁰[eighteen years], if he resides, or carries on the business or profession of pharmacy, in the State and if he has passed an approved examination or possesses a qualification approved under Section 14 ⁶¹[or is a registered pharmacist in another State].

STATE AMENDMENTS

Bihar.—Section 2 of Bihar Act 8 of 1959 provides as follows:

“Notwithstanding anything contained in Section 32 of the Pharmacy Act, 1948 (8 of 1948), any examination held, certificate granted, or fees for the examination realised by the Director, Bihar Drugs Control Laboratory, between the 30th May, 1955, and the date of the commencement of this Act, shall be deemed to be validly held, granted or collected and the validity of the action taken by the Director, Bihar Drugs Control Laboratory, shall not be called in question in any Court or proceeding whatsoever merely on the ground that the said officer was not so authorised

58. Subs. for “a person shall on payment of the prescribed fee” by Act 24 of 1959, S. 10 (w.e.f. 1-5-1960).

59. Subs. for “under this sub-section” by Act 24 of 1959, S. 10 (w.e.f. 1-5-1960).

60. Subs. for “twenty-one years” by Act 24 of 1959, S. 10 (w.e.f. 1-5-1960).

61. Ins. by Act 24 of 1959, S. 10 (w.e.f. 1-5-1960).

or empowered and all other acts or things done in pursuance of the said section during the said period shall be deemed to be valid and effectual."

CASE LAW ▶ Validity of registration.—Purpose of welfare statute cannot be permitted to be defeated by methods such as employed by appellant. If registration of pharmacist concerned obtained from other State does not appear to be a justified registration, transferee State Council can decline to accept that registration for purpose of carrying on profession of pharmacist in transferee State or cancel such registration once effected, *Rajendra Prasad Bagaria v. Pharmacy Council of State of Rajasthan*, (2012) 3 SCC 212.

⁶²[32-A. **Special provisions for registration of certain persons.**—(1) Notwithstanding anything contained in Section 32, a State Council may also permit to be entered on the register—

- (a) the names of displaced persons who have been carrying on the business or profession of pharmacy as their principal means of livelihood from a date prior to the 4th day of March, 1948, and who satisfy the conditions for registration as set out in Section 31;
- (b) the names of citizens of India who have been carrying on the business or profession of pharmacy in any country outside India and who satisfy the conditions for registration as set out in Section 31;
- (c) the names of persons who resided in an area which has subsequently become a territory of India and who satisfy the conditions for registration as set out in Section 31;
- (d) the names of persons who carry on the business or profession of pharmacy in the State, and
 - (i) would have satisfied the conditions for registration as set out in Section 31, on the date appointed under sub-section (2) of Section 30, had they applied for registration on or before that date; or
 - (ii) have been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners as defined in sub-clause (iii) of clause (f) of Section 2 for a total period of not less than five years prior to the date appointed under sub-section (2) of Section 30;
- (e) the names of persons who were qualified to be entered in the register for a State as it existed immediately before the 1st day of November, 1956, but who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, are not qualified to be entered in the register for the latter State only by reason of their not having passed either a matriculation examination or an examination prescribed as being equivalent to a matriculation examination or an approved examination or of their not possessing a qualification approved under Section 14;
- (f) the names of persons—

62. Ins. by Act 24 of 1959, S. 11 (w.e.f. 1-5-1960).

- (i) who were included in the register for a State as it existed immediately before the 1st day of November, 1956; and
- (ii) who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, reside or carry on such business or profession in the latter State;
- (g) the names of persons who reside or carry on their business or profession of pharmacy in an area in which this chapter takes effect after the commencement of the Pharmacy (Amendment) Act, 1959 (24 of 1959), and who satisfy the conditions for registration as set out in Section 31.

(2) Any person who desires his name to be entered in the register in pursuance of sub-section (1) shall make an application in that behalf to the State Council, and such application shall be accompanied by the prescribed fee.

(3) The provisions of this section shall remain in operation for a period of two years from the commencement of the Pharmacy (Amendment) Act, 1959 (24 of 1959):

Provided that the State Government may, by notification in the Official Gazette, extend the period of operation of clause (a), clause (b) or clause (c) of sub-section (1) by such further period, or periods, not exceeding two years in the aggregate, as may be specified in the notification.

Explanation 1.—For the purposes of clause (a) of sub-section (1), “displaced person” means any person who on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has, on or after the 1st day of March, 1947, left or been displaced from his place of residence in such area and who has since been residing in India.

Explanation 2.—For the purposes of clauses (b), (c) and (g) of sub-section (1), the period referred to in clause (d) of Section 31 shall be computed with reference to the date of application.]

CASE LAW ► Limitation.—Explanation 2 does not extend the period of operation of Section 32-A(3) which has been limited to two years from the commencement of Pharmacy Act, 1959. Only extends the period of the application of the chapter to such areas from the date the Pharmacy Act, 1959 is enforced in those areas, *Chandra Kant Dubey v. State of U.P.*, (2012) 91 ALR 73 (All).

⁶³[**32-B. Special provisions for registration of displaced persons, repatriates and other persons.**—(1) Notwithstanding anything contained in Section 32 or Section 32-A, a State Council may permit to be entered on the register—

- (a) the names of persons who possess the qualifications specified in clause (a) or clause (c) of Section 31 and who are eligible for registration between the closing of the First Register and the date when the Education Regulations came into effect;

63. *Ins. by Act 70 of 1976, S. 17 (w.e.f. 1-9-1976).*

- (b) the names of persons approved as 'qualified persons' before the 31st December, 1969 for compounding or dispensing of medicines under the Drugs and Cosmetics Act, 1940 (23 of 1940) and the rules made thereunder;
- (c) the names of displaced persons or repatriates who were carrying on business or profession of pharmacy as their principal means of livelihood in any country outside India for a total period of not less than five years from a date prior to the date of application for registration.

Explanation.—In this sub-section,—

- (i) "displaced person" means any person who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Bangla Desh, has, after the 14th day of April, 1957 but before the 25th day of March, 1971, left, or has been displaced from, his place of residence in such area and who has since then been residing in India;
- (ii) "repatriate" means any person of Indian origin who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Burma, Sri Lanka or Uganda, or any other country has, after the 14th day of April, 1957, left or has been displaced from, his place of residence in such area and who has since then been residing in India.

(2) The provisions of clauses (a) and (b) of sub-section (1) shall remain in operation for a period of two years from the commencement of the Pharmacy (Amendment) Act, 1976.]

STATE AMENDMENTS

Union Territory of Jammu and Kashmir.—In its application to the Union Territory of Jammu and Kashmir, after Section 32-B, insert—

"32-C. *Special provisions regarding persons registered under the Jammu and Kashmir Pharmacy Act, Samvat, 2011 (1955 A.D).*—Notwithstanding anything contained in Section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011 (1955 A.D) and possesses qualification prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to an application to be made in this behalf within a period of one year commencing from the 31st October, 2020 and payment of such fee as may be prescribed by the Government of Union territory of Jammu and Kashmir." [Vide S.O. 3465(E), dated 5-10-2020 (w.e.f. 5-10-2020)].

Union Territory of Ladakh.—In its application to the Union Territory of Ladakh, after Section 32-B, insert—

"32-C. *Special provisions regarding persons registered under the Jammu and Kashmir Pharmacy Act, Samvat, 2011 (1955 A.D).*—Notwithstanding anything contained in Section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011 (1955 A.D) and possesses qualification prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to an application to be made in this behalf within a period of one year commencing from 1st day of the January, 2020 and payment of such fee as may be prescribed by the Administration of the Union territory of Ladakh." [Vide S.O. 3774(E), dated 23-10-2020 (w.e.f. 23-10-2020)].

33. Scrutiny of application for registration.—(1) After the date appointed under sub-section (2) of Section 30, applications for registration shall be addressed to the Registrar of the State Council and shall be accompanied by the prescribed fee.

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register under the provisions of this Act for the time being applicable he shall enter the name of the applicant in the register:

Provided that no person whose name has under the provisions of this Act been removed from the register of any State shall be entitled to have his name entered in the register except with the approval of the State Council recorded at a meeting.

(3) Any person whose application for registration is rejected by the Registrar, may within three months from the date of such rejection appeal to the State Council, and the decision of the State Council thereon shall be final.

(4) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of registration in the prescribed form.

STATE AMENDMENTS

Andhra Pradesh.—After Section 33, *insert* the following Section:

33-A. Special provision for preparation of the Register of Pharmacists for the State of Andhra.—(1) Notwithstanding anything contained in this chapter, such person as may be authorised by the State Government of Andhra in this behalf (hereinafter called the authorised officer) shall prepare a separate register for pharmacists for the State of Andhra as hereinafter provided, and that register shall, for all purposes, be deemed to be the register prepared under this Act.

(2) Subject to such directions as may be issued by the State Government of Andhra in this behalf, the register of pharmacists for the State of Madras as constituted immediately before the 1st October, 1953 (with any subsequent amendments therein), shall be adopted as the register of pharmacists for the State of Andhra after deleting therefrom the names of persons who do not reside, or carry on business or profession of pharmacy, in the State of Andhra.

(3) The authorised officer shall pass an order in writing before deleting the name of any person from the register as provided in sub-section (2):

Provided that the authorised officer shall, before passing an order, make such enquiry as he deems necessary, and give an opportunity to the person concerned to make his representation, if any.

(4) Any person aggrieved by an order under sub-section (3) may appeal to such authority, and within such time, as may be specified in this behalf by the State Government of Andhra, and such authority may pass such order in the appeal as it thinks fit.

(5) An order of the authorised officer under sub-section (3) or, where an appeal has been preferred against it under sub-section (4) the order of the appellate authority shall be final.” [Vide Andhra A.O. (Second), 1954].

Madras.—After Section 33, *insert* the following section:

“33-A. Special provision for amending the Register.—(1) Notwithstanding anything contained in this chapter, the Registrar may, by order in writing, amend the register by deleting therefrom the name of any person who by reason of the formation of the State of Andhra, or the reorganisation of States or the alteration of boundaries under the Andhra Pradesh and Madras

(Alteration of Boundaries) Act, 1959, has ceased to reside or carry on the business or profession of pharmacy in the State of Madras.

The Registrar may likewise amend the register by adding thereto the name of any person whose residence or place of practice has, by reason of the said alteration of boundaries, become part of the State of Madras:

Provided that the Registrar shall, before passing an order, make such inquiry as he deems necessary.

(2) Any person aggrieved by an order under sub-section (1) may appeal to such authority, and within such time, as may be specified in this behalf by the State Government of Madras, and such authority shall pass such order on the appeal as it thinks fit.

(3) An order of the Registrar under sub-section (1), *or, where an appeal has been preferred against it under sub-section (2), the order of the appellate authority shall be final.*

(4) The provisions of this section shall cease to be in force from such date as the State Government of Madras may, by notification in the Official Gazette, appoint." (*Vide Madras A.O. 1954 and A.O. 1961*).

34. Renewal fees.—(1) The State Government may, by notification in the Official Gazette, direct that for the retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be paid annually to the State Council such renewal fee as may be prescribed, and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

(2) Where a renewal fee is not paid by the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on such conditions as may be prescribed.

(3) On payment of the renewal fee, the Registrar shall ⁶⁴[issue a receipt therefor and such receipt shall be proof of renewal of registration].

35. Entry of additional qualifications.—A registered pharmacist shall on payment of the prescribed fee be entitled to have entered in the register any further degrees or diplomas in pharmacy or pharmaceutical chemistry which he may obtain.

36. Removal from register.—(1) Subject to the provisions of this section, the Executive Committee may order that the name of a registered pharmacist shall be removed from the register, where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

- (i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact, or
- (ii) that he has been convicted of any offence or has been guilty of any infamous conduct in any professional respect which in the opinion of the Executive Committee, renders him unfit to be kept in the register, or

64. *Subs.* for "in the prescribed manner endorse the certificate of registration accordingly" by Act 24 of 1959, S. 12 (w.e.f. 1-5-1960).

- (iii) that a person employed by him for the purposes of his business of pharmacy ⁶⁵[or employed to work under him in connection with any business or pharmacy] has been convicted of any such offence or has been guilty of any such infamous conduct as would, if such person were a registered pharmacist, render him liable to have his name removed from the register under clause (ii):

Provided that no such order shall be made under clause (iii) unless the Executive Committee is satisfied—

- (a) that the offence or infamous conduct was instigated or connived at by the registered pharmacist, or
- (b) that the registered pharmacist has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place committed a similar offence or been guilty of similar infamous conduct, or
- (c) that any person employed by the registered pharmacist for the purposes of his business of pharmacy ⁶⁶[or employed to work under him in connection with any business of pharmacy] has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place, committed a similar offence or been guilty of similar infamous conduct, and that the registered pharmacist had, or reasonably ought to have had, knowledge of such previous offence or infamous conduct, or
- (d) that where the offence or infamous conduct continued over a period, the registered pharmacist had, or reasonably ought to have had, knowledge of the continuing offence or infamous conduct, or
- (e) that where the offence is an offence under the ⁶⁷[Drugs and Cosmetics Act, 1940] (23 of 1940), the registered pharmacist has not used due diligence in enforcing compliance with the provisions of that Act in his place of business and by persons employed by him ⁶⁸[or by persons under his control].

(2) An order under sub-section (1) may direct that the person whose name is ordered to be removed from the register shall be ineligible for registration in the State under this Act either permanently or for such period as may be specified.

(3) An order under sub-section (1) shall be subject to confirmation by the State Council and shall not take effect until the expiry of three months from the date of such confirmation.

(4) A person aggrieved by an order under sub-section (1) which has been confirmed by the State Council may, within thirty days from the communication

65. *Ins.* by Act 24 of 1959, S. 13 (w.e.f. 1-5-1960).

66. *Ins.* by Act 24 of 1959, S. 13 (w.e.f. 1-5-1960).

67. *Subs.* by Act 70 of 1976, S. 18 (w.e.f. 1-9-1976).

68. *Ins.* by Act 24 of 1959, S. 13 (w.e.f. 1-5-1960).

to him of such confirmation, appeal to the State Government, and the order of the State Government upon such appeal shall be final.

(5) A person whose name has been removed from the register under this section or under sub-section (2) of Section 34 shall forthwith surrender his certificate of registration to the Registrar, and the name so removed shall be published in the Official Gazette.

CASE LAW ► Cancellation of registration.—Section 36(1)(f) which provides for removing name of registered pharmacist in event of error in his registration or where registration was done on account of misrepresentation or suppression of material fact, gives sufficient power to Executive Committee to recall its decision, *Rajendra Prasad Bagaria v. Pharmacy Council of State of Rajasthan*, (2012) 3 SCC 212.

37. Restoration to register.—The State Council may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto:

Provided that where an appeal against such removal has been rejected by the State Government, an order under this section shall not take effect until it has been confirmed by the State Government.

38. Bar of other jurisdiction.—No order refusing to enter a name on the register or removing a name from the register shall be called in question in any Court.

39. Issue of duplicate certificates of registration.—Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.

⁶⁹**40. Printing of register and evidentiary value of entries therein.**—(1) As soon as may be after the 1st day of April subsequent to the commencement of the Pharmacy (Amendment) Act, 1959 (24 of 1959), the Registrar shall cause to be printed copies of the register as it stood on the said date.

(2) The Registrar shall thereafter cause to be printed as soon as may be after the 1st day of April in each year copies of the annual supplement to the register referred to in sub-section (1), showing all additions to, and other amendments in, the said register.

(3) (a) The register shall be brought up-to-date three months before ordinary elections to the State Council are held and copies of this register shall be printed.

(b) The provisions of sub-section (2) shall apply to the register as so printed as they apply to the register referred to in sub-section (1).

(4) The copies referred to in sub-section (1) or sub-section (2) or sub-section (3) shall be made available to persons applying therefor on payment of the prescribed charge and shall be evident that on the date referred to in the register or annual supplement, as the case may be, the persons whose names are entered therein were registered pharmacists.]

69. Subs. by Act 24 of 1959, S. 14 for S. 40 (w.e.f. 1-5-1960).

CHAPTER V

MISCELLANEOUS

41. Penalty for falsely claiming to be registered.—(1) If any person whose name is not for the time being entered in the register of the State falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment extending to six months or with fine not exceeding one thousand rupees or with both:

Provided that it shall be a defence to show that the name of the accused is entered in the register of another State and that at the time of the alleged offence under this section an application for registration in the State had been made.

(2) For the purposes of this section—

- (a) it shall be immaterial whether or not any person is deceived by such pretence or use as aforesaid;
- (b) the use of the description “pharmacist”, “chemist”, “druggist”, “pharmaceutist”, “dispenser”, “dispensing chemist” or any combination of such word ⁷⁰[or of any such word with any other word] shall be deemed to be reasonably calculated to suggest that the person using such description is a person whose name is for the time being entered in the register of the State;
- (c) the onus of proving that the name of a person is for the time being entered in the register of a State shall be on him who asserts it.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the State Government or ⁷¹[any officer authorised in this behalf by the State Government or by order of] the Executive Committee of the State Council.

42. Dispensing by unregistered persons.—(1) On or after such date as the State Government may by notification in the Official Gazette appoint in this behalf, no person other than a registered pharmacist shall compound, prepare, mix, or dispense any medicine on the prescription of a medical practitioner ⁷²[* * *]:

Provided that this sub-section shall not apply to the dispensing by a medical practitioner of medicine for his own patients, or with the general or special sanction of the State Government, for the patients of another medical practitioner:

⁷³[Provided further that where no such date is appointed by the Government of a State, this sub-section shall take effect in that State on the expiry of a period of ⁷⁴[eight] years from the commencement of the Pharmacy (Amendment) Act, 1976.]

70. *Ins.* by Act 24 of 1959, S. 15 (w.e.f. 1-5-1960).

71. *Ins.* by Act 24 of 1959, S. 15 (w.e.f. 1-5-1960).

72. The words “except under the direct and personal supervision of a registered pharmacist” *omitted* by Act 24 of 1959, S. 16 (w.e.f. 1-5-1960).

73. *Ins.* by Act 70 of 1976, S. 19 (w.e.f. 1-9-1976).

74. *Subs.* for “five” by Act 22 of 1982, S. 2 (w.e.f. 1-9-1981).

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees or with both.

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by ⁷⁵[order of the State Government or any officer authorised in this behalf by the State Government, or by order of the Executive Committee of the State Council].

43. Failure to surrender certificate of registration.—(1) If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to fifty rupees.

(2) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the Executive Committee.

44. Payment of part of fees to Central Council.—The State Council shall before the end of June in each year pay to the Central Council a sum equivalent to one-fourth of the total fees realised by the State Council under this Act during the period of twelve months ending on the 31st day of March of that year.

45. Appointment of Commission of Enquiry.—(1) Whenever it appears to the Central Government that the Central Council is not complying with any of the provisions of this Act, the Central Government may appoint a Commission of Enquiry consisting of three persons, two of whom shall be appointed by the Central Government, one being the Judge of a High Court, and, one by the Council; and refer to the matters on which the enquiry is to be made.

(2) The Commission shall proceed to enquire in such manner as it may deem fit and report to the Central Government on the matters referred to it together with such remedies, if any, as the Commission may like to recommend.

(3) The Central Government may accept the report or remit the same to the Commission for modification or reconsideration.

(4) After the report is finally accepted, the Central Government may order the Central Council to adopt the remedies so recommended within such time as may be specified in the order and if the Council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the Commission.

(5) Whenever it appears to the State Government that the State Council is not complying with any of the provisions of this Act, the State Government may likewise appoint a similar Commission of Enquiry and pass such order or take such action as specified in sub-sections (3) and (4).

46. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters III, IV and V.

75. Subs. for "an order of the State Government" by Act 24 of 1959, S. 16 (w.e.f. 1-5-1960).

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the management of the property of the State Council, and the maintenance and audit of its accounts;
- (b) the manner in which elections under Chapter III shall be conducted;
- (c) the summoning and holding of meetings of the State Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum;
- (d) the powers and duties of the President and Vice-President of the State Council;
- (e) the constitution and functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum;
- (f) the qualifications, the term of office and the powers and duties of the Registrar and other officers and servants of the State Council, including the amount and nature of the security to be given by the Treasurer;
- ⁷⁶[(ff) the qualifications, powers and duties of an Inspector;]
- (g) the particulars to be stated, and the proof of qualifications to be given, in applications for registration under Chapter IV;
- (h) the conditions of registration under sub-section (1) of Section 32;
- (i) fees payable under Chapter IV and the charge for supplying copies of the register;
- (j) the form of certificates of registration ⁷⁷[* * *];
- (k) the maintenance of register;
- ⁷⁸[(kk) the conduct of pharmacists and their duties in relation to medical practitioners, the public and the profession of pharmacy;]
- (l) any other matter which is to be or may be prescribed under Chapters III, and IV and V except sub-sections (1), (2), (3) and (4) of Section 45.

⁷⁹[(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.]

76. *Ins.* by Act 70 of 1976, S. 20 (w.e.f. 1-9-1976).

77. The words "and the manner of endorsement of renewals thereof" *omitted* by Act 24 of 1959, S. 17 (w.e.f. 1-5-1960).

78. *Ins.* by Act 24 of 1959, S. 17 (w.e.f. 1-5-1960).

79. *Ins.* by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).