

THE PHARMACY COUNCIL BILL

Bill No. 13 of 2015

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Explanatory Memorandum

The object of this Bill is to provide for the establishment of the Pharmacy Council of Mauritius and for better regulation of the profession of pharmacists.

2. The Council will, inter alia –

- (a) regulate and control the profession of pharmacists;
- (b) register pharmacists and pre-registration trainees;
- (c) temporarily register non-citizens, other than non-citizens who are residents of Mauritius, as foreign pharmacists or visiting pharmacists;
- (d) exercise and maintain discipline in the profession of pharmacists; and
- (e) promote advancement in the field of pharmacy.

A. K. GAYAN

Minister of Health and

Quality of Life

28 August 2015

THE PHARMACY COUNCIL BILL

(No. XIII of 2015)

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SCHEDULE

A BILL

To establish the Pharmacy Council of Mauritius and to provide for better regulation of the profession of pharmacists

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Pharmacy Council Act 2012.

2. Interpretation

In this Act –

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means such Code of Practice as may be prescribed under section 45;

“committee” means a committee set up under section 10;

“Council” means the Pharmacy Council of Mauritius established under section 3;

“delegated power” means the powers delegated, under section 89(2)(b)(i) of the Constitution, and subject to Part IVA of the Public Service Commission Regulations, to the Council by the Public Service Commission to enquire and report into any complaint of professional misconduct or negligence against a pharmacist appointed by the Public Service Commission;

“financial year” has the same meaning as in section 2A of the Finance and Audit Act;

“foreign pharmacist” means a person registered as such under section 24;

“licensed auditor” has the same meaning as in the Financial Reporting Act;

“member” –

(a) means a member of the Council; and

(b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“officer” –

(a) means a person appointed as such under section 14; and

(b) includes the Registrar;

“pharmaceutical product” has the same meaning as in the Pharmacy Act;

“pharmacist” means a person registered as such under section 18;

“Pharmacy Board” means the Pharmacy Board established under the Pharmacy Act;

“pharmacy dispenser” means a person who is a dispenser of pharmaceutical products or assists a pharmacist in dispensing pharmaceutical products;

“practice of pharmacy” includes –

(a) dispensing, prescribing, compounding, labelling, manufacturing, distributing, administering and preserving pharmaceutical products;

(b) interpreting prescriptions;

(c) patient counselling for the purposes of dispensing and prescribing pharmaceutical products;

(d) evaluating the use of pharmaceutical products;

(e) manufacturing and distributing pharmaceutical products;

(f) quality assurance of pharmaceutical products;

(g) research and development of pharmaceutical products;

“preliminary investigation” means a preliminary investigation under section 27;

“pre-registration trainee” means a person registered as such under section 22;

“Register” means the register of pharmacists, kept under section 21;

“registered nurse” has the same meaning as in the Nursing Council Act;

“Registrar” means the Registrar of the Council appointed under section 12;

“resident” has the same meaning as in the Immigration Act;

“supervising officer” means the supervising officer of the Ministry;

“Tribunal” means the Medical Disciplinary Tribunal set up under the Medical Council Act;

“Vice-chairperson” means the Vice-chairperson of the Council;

“visiting pharmacist” means a person registered as such under section 25.

PART II – THE COUNCIL

3. Establishment of Council

(1) There is established for the purposes of this Act the Pharmacy Council of Mauritius.

(2) The Council shall be a body corporate.

(3) The principal place of business of the Council shall be at such place as it may determine.

4. Objects of Council

The Council shall –

(a) regulate and control the profession of pharmacists;

(b) promote advancement in the field of pharmacy.

5. Functions of Council

The Council shall –

(a) register pharmacists and pre-registration trainees;

(b) temporarily register non-citizens, other than non-citizens who are residents of Mauritius, as foreign pharmacists or visiting pharmacists;

(c) exercise and maintain discipline in the profession of pharmacists –

(i) in relation to a pharmacist who is appointed by the Public Service Commission and in respect of whom the Council holds a delegated power, to the extent and within the limits of that delegation of power; and

(ii) in relation to any other pharmacist;

(d) establish a Code of Practice on standards of professional conduct and ethics and monitor compliance with such code;

(e) co-operate with any other institution having objects wholly or partly similar to its objects;

- (f) publish an annual list of pharmacists;
- (g) keep a record of its proceedings and decisions;
- (h) conduct such examinations as it may approve, before registering pharmacists;
- (i) approve, organise or cause to be organised training programmes, courses, lectures, seminars or conferences for the profession of pharmacists;
- (j) collaborate with the Pharmacy Board as and when required;
- (k) advise the Minister on any matter governed by this Act on any matter connected with, or incidental to, it;
- (l) perform such other functions as are conducive to the objects of the Council.

6. Powers of Council

The Council shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –

- (a) enter into any contract or agreement;
- (b) set up any committee;
- (c) sell or exchange any property;
- (d) subject to section 36, make or receive any grant or donation, other than to, or from, a person who is the holder of a licence to operate a pharmacy under the Pharmacy Act;
- (e) borrow money, other than from a person who is the holder of a licence to operate a pharmacy under the Pharmacy Act, and raise funds;
- (f) collect or receive any fee, rental, interest or other sum which may lawfully accrue to it;

- (g) do such acts and things as may be necessary for the purposes of this Act.

PART III – MANAGEMENT OF COUNCIL

7. Composition of Council

- (1) The Council shall consist of –
- (a) 3 pharmacists posted at the Ministry, each having not less than 7 years' experience as pharmacist in Mauritius;
 - (b) 5 pharmacists, each having not less than 7 years' experience as pharmacist in Mauritius, to be elected in the manner specified in the Schedule;
 - (c) the Director, Pharmaceutical Services or his representative;
 - (d) a representative of the Ministry;
 - (e) a representative of the Prime Minister's Office;
 - (f) a representative of the Attorney-General's Office;
 - (g) a representative of the Department of Health Sciences of the University of Mauritius; and
 - (h) 3 other persons to be appointed by the Minister, where 2 shall be registered pharmacists who are not posted at the Ministry and a representative of a Consumer Protection Organisation.

(2) The Council shall elect a Chairperson and a Vice-chairperson from among the members referred to in subsection (1)(a), (b) or (c).

(3) A member, other than a member referred to in subsection (1)(c) to (f) shall, subject to section 8, hold office for a period of 3 years and shall be eligible for reappointment or re-election, as the case may be.

(4) Every member shall be paid such fee or allowance as the Council may determine.

8. Vacancy in membership of Council

(1) A member, other than a member referred to in subsection (1)(c) to (f) shall cease to hold office –

- (a) on completion of his term of office; or
- (b) on his resignation, by notice in writing given to the Registrar.

(2) Where a member resigns under subsection (1)(b), his seat shall become vacant as from the date on which the Registrar receives the notice.

(3) The Council may remove from office any member, other than a member referred to in subsection (1)(c) to (f), who –

- (a) is absent, without leave of the Council, from 2 consecutive meetings of the Council;
- (b) commits an act of misconduct, malpractice, negligence, fraud or dishonesty, or a breach of the Code of Practice, which, in the opinion of the Council, renders him unfit to be a member;
- (c) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
- (d) is suspended or deregistered as a pharmacist under this Act;
- (e) is suffering from such mental or physical impairment as, in the opinion of the Council, renders him unfit to be a member; or
- (f) fails to disclose any pecuniary or other material interest which he has in relation to any matter before the Council.

(4) The Council may suspend from office, for such time as it may determine, any member who is –

- (a) liable to be removed from office under subsection (3);
- (b) guilty of a minor breach of the Code of Practice; or
- (c) the subject of a preliminary investigation.

(5) Where a vacancy occurs in the membership of the Council, the vacancy shall be filled, in the case of a member who is –

- (a) appointed by the Minister, by a fresh appointment; or
- (b) elected, by appointing the pharmacist who obtained the highest number of votes after the elected pharmacist at the election held immediately before the vacancy arose.

(6) A person appointed under subsection (5) shall hold office for the remainder of the term of office of the person whom he replaces.

9. Meetings of Council

(1) The Council shall meet as often as the Chairperson may determine but at least once every month.

(2) A meeting of the Council shall be held at such time and place as the Chairperson may determine.

(3) At a meeting of the Council, 9 members shall constitute a quorum.

(4) (a) The Chairperson or, in the absence of the Chairperson, the Vice-chairperson shall preside at a meeting of the Council.

(b) Where the Chairperson and the Vice-chairperson are absent from a meeting of the Council, the members present shall elect one of the members referred to in section 7(1)(a), (b) or (c) to chair the meeting.

(5) (a) A special meeting of the Council –

(i) may be convened by the Chairperson at any time; or

(ii) shall be convened by the Registrar within 7 days of the receipt of a request in writing signed by not less than 8 members.

(b) Any request made under paragraph (a)(ii) shall specify the purpose for which the special meeting is to be convened.

(6) The Council may, where it considers necessary, co-opt such other persons with relevant expertise not already available to the Council, to assist it in relation to any matter before it.

(7) At any meeting of the Council, each member shall have one vote on a matter in issue and in the event of an equality of votes, the person presiding shall have a casting vote.

(8) Subject to this section, the Council shall regulate its meetings and proceedings in such manner as it may determine.

10. Committees

(1) The Council may set up such committees as may be necessary to assist it in the discharge of its functions, including the conduct of a preliminary investigation.

(2) A committee shall consist of not less than 3 members of the Council and such other persons as may be co-opted by the Council.

(3) A committee shall –

(a) meet as often as is necessary and at such time and place as the chairperson of the committee may determine;

(b) meet as and when required by the Council;

(c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Council may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

11. Disclosure of interest

(1) Where any member, or any person related to the member by blood or marriage, has a pecuniary or other material interest in relation to any matter before the Council or a committee, that member shall –

(a) disclose the nature of the interest before or at the meeting convened to discuss that matter; and

(b) not take part in any deliberations relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Council or committee.

12. Registrar

(1) The Council shall appoint, on such terms and conditions as it may determine, a pharmacist to act as Registrar of the Council.

(2) The pharmacist appointed under subsection (1) shall have at least 5 years' experience as a pharmacist in Mauritius.

(3) The Registrar shall be responsible for the proper administration of the Council.

- (4) The Registrar shall act as Secretary to the Council and –
- (a) shall, for every meeting of the Council –
 - (i) give notice of the meeting to the members;
 - (ii) prepare and attend the meeting;
 - (iii) keep minutes of proceedings of the meeting; and
 - (iv) execute all decisions of the Council; and
 - (b) may take part in the deliberations of a meeting of the Council, but shall not have the right to vote.
- (5) The Registrar may also act as the Treasurer of the Council.
- (6) The Registrar shall have such other functions as may be conferred upon him by the Council.
- (7) Where the Registrar is for any reason unable to perform his functions, the Council may appoint another pharmacist to act as Registrar.

13. Delegation

- (1) The Council may, subject to such instructions as it may give, delegate to the Registrar such of its functions and powers as may be necessary for the effective management of the day-to-day business and activities of the Council, other than the power to –
- (a) sell or exchange any property;
 - (b) make or receive any grant or donation;
 - (c) borrow money and raise funds.

(2) The Registrar may, with the approval of the Council, delegate his functions and powers to such officer as he may designate.

14. Appointment of officers

(1) The Council may, on such terms and conditions as it may determine, appoint such officers as it considers necessary for the proper discharge of its functions under this Act.

(2) Every officer shall be under the administrative control of the Registrar.

15. Conditions of service of officers

The Council may make provision to govern the conditions of service of its officers and, in particular, to deal with –

(a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, officers;

(b) appeals by officers against dismissal and any other disciplinary measure.

16. Powers of Minister

(1) The Minister may give such directions of a general character to the Council, not inconsistent with this Act, as he considers necessary in the public interest, and the Council shall comply with those directions.

(2) The Minister may require the Council to furnish any information or document in relation to its activities, and the Council shall supply such information or document.

PART IV – PHARMACIST AND PRE-REGISTRATION TRAINEE

17. Practice of pharmacy

(1) No person shall practise pharmacy unless he is –

(a) registered as a pharmacist under this Part; or

- (b) temporarily registered as a foreign pharmacist or visiting pharmacist under Part V.
- (2) Nothing in this Act shall –
- (a) prevent any person, duly authorised by the supervising officer and employed by, or attached to, any voluntary organisation in Mauritius, from rendering, in the course of his duties, pharmaceutical assistance under the supervision of, or pursuant to the instructions of, a pharmacist;
 - (b) prevent a pharmacy dispenser from carrying out his duties under the supervision of, or pursuant to the instructions of, a pharmacist;
 - (c) prevent any registered nurse from carrying out his duties under the supervision of, or pursuant to the instructions of, a pharmacist;
 - (d) be construed as prohibiting the practice of systems of therapeutics according to homeopathy, or Ayurvedic or Chinese traditional methods.

18. Registration of pharmacist

- (1) No person shall be registered as a pharmacist unless –
- (a) he satisfies the Council that he –
 - (i) is a citizen, or a resident, of Mauritius;
 - (ii) has not been convicted of an offence involving fraud or dishonesty in any country;
 - (iii) has not been disqualified or deregistered as a pharmacist on account of professional misconduct, malpractice, negligence, fraud, dishonesty or breach of a code of practice in any country; and

- (iv) does not suffer from any mental impairment which is likely to hamper the discharge of his duties as pharmacist;
- (b) subject to subsection (2)(a), he produces a certificate, or a certified copy of a certificate, stating that he has passed at one sitting any 3 subjects at Advanced ('A') level (or its equivalent), with a minimum of 21 points, based on the following scale (or such equivalent scale as may be approved by the Council on the recommendation of the Ministry responsible for the subject of education) –

A Level Grade	A Level Points
A+	10
A	9
B	8
C	7
D	6
E	4

- (c) he holds a degree, diploma or an equivalent qualification in the field of pharmacy, after having attended and successfully completed a full-time course of a minimum duration of 4 years, excluding pre-registration training, at a university or other institution;
- (d) subject to subsection (2)(b), he satisfies the Council, that he has undergone at least one year's approved pre-registration training;
- (e) subject to subsection (2)(c), he has, after having undergone at least one year's approved pre-registration training, successfully passed such examination as the Council may determine for the purpose of determining whether he possesses adequate professional pharmaceutical knowledge; and
- (f) he pays such registration fee as may be prescribed.

(2) (a) Subsection (1)(b) shall not apply to a person who has, on the commencement of this section, already enrolled on a course leading to a degree, diploma or an equivalent qualification in the field of pharmacy.

(b) Subsection (1)(d) shall not apply to a person who satisfies the Council that pre-registration training was a compulsory component of the course referred to in subsection (1)(c), subject that the pre-registration training was for a period of at least one year.

(c) Subsection (1)(e) shall not apply to a person who satisfies such criteria as may be prescribed.

(3) (a) A person who wishes to be registered as a pharmacist shall make a written application to the Registrar in such form and manner as the Council may determine.

(b) An application made under paragraph (a) shall be accompanied by –

(i) the applicant's birth certificate, National Identity Card or any other acceptable evidence of his identity, and in the case of a non-citizen, his passport;

(ii) (A) the original or a certified copy of the applicant's degree, diploma or equivalent qualification in the field of pharmacy; and

(B) where applicable, a certified translation, in English or French, of his degree, diploma or equivalent qualification in the field of pharmacy where the qualification is written in a language other than English or French;

(iii) evidence that the applicant has followed not less than one year's approved pre-registration training;

(iv) such processing fee as may be prescribed; and

(v) such additional document or information as the Registrar may require.

(4) On receipt of an application made under subsection (3), the Registrar shall refer the application to the Council for its determination.

(5) (a) The Council may, where it considers it necessary, call an applicant for an interview.

(b) The Council may grant or reject an application and shall forthwith notify the applicant of its decision.

(c) Where the Council grants an application under paragraph (b), it shall, on payment by the applicant of such registration and annual fees as may be prescribed, register the applicant as a pharmacist and issue to him a certificate of registration, subject to such terms and conditions as the Council may determine.

(d) Where the Council registers a pharmacist under paragraph (c), the Registrar shall forthwith enter in the Register the name, address, qualification and other particulars of that pharmacist.

(6) Where the Council is satisfied that a pharmacist has damaged or lost his certificate of registration, it may, on payment of such appropriate fee as may be prescribed, issue a duplicate certificate of registration to him.

19. Annual fee

(1) Subject to subsection (2), every pharmacist shall, on or before 31 January in every year, pay to the Registrar such annual fee as may be prescribed, in respect of the year commencing on 1 January of that year.

(2) Where a pharmacist fails to comply with subsection (1), he shall be liable to pay the annual fee, together with a surcharge of 50 per cent of the annual fee, by 15 February in the year in respect of which it is due.

(3) Where a pharmacist fails to pay the annual fee together with the surcharge required under subsection (1), the Council may deregister the pharmacist.

(4) Where a pharmacist is deregistered under subsection (3), the Council shall cause the Registrar to remove the name and other particulars of the pharmacist from the Register.

(5) The Council may, where a pharmacist is deregistered under subsection (3), restore the name and other particulars of the pharmacist on the Register on good cause shown and on payment of the annual fee together with its surcharge.

20. Annual list

(1) The Registrar shall, not later than the end of February in every year, transmit to the Minister a list of all pharmacists registered for that year, including foreign pharmacists and visiting pharmacists temporarily registered for that year.

(2) The Council shall, not later than 1 March in every year, publish in the *Gazette* an annual list of pharmacists for that year.

21. Register

(1) The Registrar shall keep a Register of pharmacists, or such other register as may be necessary, in such form and manner as the Council may determine.

(2) The Registrar shall enter in the Register –

- (a) the name, address, qualification and other particulars of every pharmacist;
- (b) any alteration in the particulars of a pharmacist;
- (c) where a pharmacist is suspended or deregistered as a pharmacist, an annotation to that effect;
- (d) such other particulars as the Council may determine.

(3) (a) Subject to subsection (2), where after registration, a pharmacist obtains any additional qualification in the field of pharmacy, the Council may, on application

made by the pharmacist, add the additional qualification to the pharmacist's particulars in the Register.

(b) An application made under paragraph (a) shall be accompanied by such fee as may be prescribed by the Council.

22. Registration of pre-registration trainee

(1) No person shall be registered as a pre-registration trainee unless –

(a) he satisfies the requirements referred to in section 18(1)(a),(b) and (c);
and

(b) he undertakes to follow pre-registration training at a pharmaceutical institution, or undertaking, approved by the Council.

(2) Every person who wishes to be registered as pre-registration trainee shall make a written application to the Registrar in such form and manner as the Council may determine.

(3) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(4) Where the Council grants an application, it shall, on payment of such fee as may be prescribed, cause the Registrar to enter the name, address and other particulars of the pre-registration trainee in the register of pre-registration trainees.

(5) Where the Council rejects an application, it shall forthwith notify the applicant of its decision.

23. Continuing professional development

(1) Notwithstanding section 20 but subject to subsection (2), no person shall have his name on the annual list unless he has followed such continuing professional development courses or training programmes as the Council may determine.

(2) Subsection (1) shall not apply to a registered person who is excused by the Council on such ground as may be prescribed.

PART V – TEMPORARY REGISTRATION OF NON-CITIZENS

24. Foreign pharmacist

(1) A non-citizen may be temporarily registered as a foreign pharmacist where he

–

- (a) undertakes to work in a company or other body where the relevant expertise required in the field of pharmacy is not available in Mauritius;
- (b) holds a work permit, is exempted from holding a permit under the Non-Citizens (Employment Restriction) Act or holds an occupation permit under section 9A of the Immigration Act;
- (c) satisfies the requirements referred to in section 18(1)(a)(ii) to (iv), (b) and (c); and
- (d) pays such registration fee as may be prescribed.

(2) (a) Where a non-citizen wishes to be temporarily registered as a foreign pharmacist under this section, he shall make a written application to the Registrar in such form and manner as the Council may determine.

- (b) An application made under paragraph (a) shall be accompanied by –
 - (i) the applicant's birth certificate and where necessary, his passport;
 - (ii) (A) the original or a certified copy of the applicant's degree, diploma or equivalent qualification in the field of pharmacy; and
(B) where applicable, a certified translation in English or French of his degree, diploma or equivalent

qualification in the field of pharmacy where such qualification is in a language other than English or French;

- (iii) evidence that the applicant has followed not less than one year's approved pre-registration training;
- (iv) documentary evidence that the applicant's expertise in the field of pharmacy is not available in Mauritius;
- (v) the applicant's work permit, where applicable, or occupation permit;
- (vi) such processing fee as may be prescribed; and
- (vii) such additional document or information as the Registrar may require.

(3) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(4) (a) The Council may, where it considers it necessary, call an applicant for an interview.

(b) The Council may grant or reject an application and shall forthwith notify the applicant of its decision.

(c) Where the Council grants an application, it shall, on payment of such registration fee as may be prescribed, temporarily register the applicant as a foreign pharmacist, subject to such terms and conditions as the Council may determine.

(5) The temporary registration of a non-citizen as a foreign pharmacist under this section may be renewed annually until such time the expertise is available in Mauritius.

25. Visiting pharmacist

(1) A non-citizen may be temporarily registered as a visiting pharmacist where –

- (a) he is engaged in Mauritius in the implementation of a Government scheme agreed upon by the Government of Mauritius and the World Health Organisation or another similar international agency;
- (b) he has been invited to offer his services under a scheme approved by the Ministry; or
- (c) he visits Mauritius for the purpose of teaching, research or study in the field of pharmacy under a scheme as may be approved by the Government of Mauritius.

(2) The Ministry shall, on behalf of the non-citizen, make all necessary arrangements for him to be temporarily registered with the Council.

- (3) (a) A visiting pharmacist shall –
 - (i) be exempted from the payment of any fee prescribed under this Act;
 - (ii) not be involved in the running of any pharmacy.
- (b) In this subsection –

“pharmacy” has the same meaning as in the Pharmacy Act.

PART VI – DISCIPLINE

26. Interpretation of Part VI

In this Part –

“pharmacist” includes –

- (a) a pharmacist in respect of whom the Council holds a delegated power; and

- (b) a foreign pharmacist.

27. Preliminary investigation

- (1) The Council may investigate any complaint–

- (a) professional misconduct, malpractice or negligence;
- (b) a breach of the Code of Practice; or
- (c) any other act likely to bring the profession of pharmacists into disrepute,

against a pharmacist.

- (2) Where the Council investigates a complaint under subsection (1), it –

- (a) shall notify the pharmacist, whose conduct, act or omission is under investigation, of the nature of the complaint against him;
- (b) may summon and hear the pharmacist who shall be given an opportunity of being assisted by a legal representative of his choice;
- (c) may summon and hear witnesses;
- (d) may call for the communication or production of any relevant record, document or article; and
- (e) shall submit its report not later than 3 months as from the date the investigation starts.

- (3) The Council shall, when investigating a complaint under subsection (1), keep a proper record of its proceedings.

- (4) Where, in the course of a preliminary investigation, any person refuses to communicate or produce any record, document or article on the ground of confidentiality, the

Registrar may apply to a Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the investigation.

(5) Where the Judge is satisfied that the record, document or article sought is bona fide required for the purpose of the preliminary investigation, he may make an order under subsection (4).

(6) The Council may, for the purpose of a preliminary investigation under subsection (1), appoint a committee consisting of not less than 3 members.

(7) A member who –

- (a) is closely related to a pharmacist whose conduct, act or omission is under preliminary investigation;
- (b) has any pecuniary or other personal interest in the subject-matter of a preliminary investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

28. Disciplinary proceedings

(1) Where, after a preliminary investigation, the Council considers it necessary to prefer charges against a pharmacist, it shall forward to the pharmacist a statement of those charges and call upon him to state in writing, before such date as the Council may specify, any ground on which he relies to exculpate himself.

(2) Where the pharmacist does not furnish a reply to any charge forwarded under subsection (1) within the period specified or where, in the opinion of the Council, he fails to exculpate himself, the Council may, subject to section 32, institute disciplinary proceedings against him before the Tribunal.

29. Membership of Tribunal

(1) Notwithstanding section 15(2)(b) of the Medical Council Act, in relation to a matter referred to the Tribunal under section 28, the Prime Minister shall, subject to subsection (2), appoint 2 persons who are pharmacists with not less than 10 years' experience as members of the Tribunal.

(2) The Prime Minister shall not appoint a member of the Council as a member of the Tribunal.

30. Disciplinary measures

(1) The Tribunal shall, after having heard any disciplinary proceedings, forward to the Council its report and a copy of its proceedings, including any record, document or article produced, not later than one month after the completion of the proceedings.

(2) The report under subsection (1) shall include –

- (a) a finding as to whether the charge has been proved or not, and the reasons for such finding;
- (b) details of any matter which, in the Tribunal's opinion, aggravates or alleviates the gravity of the charge; and
- (c) a summing up and such comments as will indicate clearly the opinion of the Tribunal on the subject matter of the disciplinary proceedings.

(3) The Tribunal shall not, in its report, make any recommendation regarding the form of disciplinary measure.

(4) (a) Where the report is in relation to a pharmacist, other than a pharmacist in respect of whom the Council holds a delegated power, and states that the charge has been proved, the Council may–

- (i) administer him a reprimand or a severe reprimand;

- (ii) suspend him as a pharmacist or foreign pharmacist, as the case may be, for a period not exceeding 2 years; or
- (iii) deregister him as a pharmacist or foreign pharmacist, as the case may be.

(b) Where the report is in relation to a pharmacist in respect of whom the Council holds a delegated power, the Council shall submit its own report to the Public Service Commission, in accordance with regulation 46E of the Public Service Commission Regulations.

(5) Where the punishment inflicted by the Public Service Commission on a pharmacist, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall determine whether or not it shall suspend or deregister the pharmacist.

(6) A decision of the Council under subsection (4) or (5) shall be communicated to the pharmacist not later than 14 days from the date of the decision.

31. Other disciplinary measures

(1) Without any of the proceedings provided for in sections 27, 28 and 30 being instituted, the Council shall, where a pharmacist has been convicted of an offence and is serving a sentence of imprisonment or penal servitude –

- (a) suspend him as a pharmacist or foreign pharmacist, as the case may be, for such time as the Council may determine; or
- (b) deregister him as a pharmacist or foreign pharmacist, as the case may be.

(2) The Registrar shall cause any suspension or deregistration under this Act to be published in the *Gazette* and in 2 daily newspapers.

32. Summary proceedings

Where the Council is satisfied, after having carried out a preliminary investigation against a pharmacist, other than a pharmacist in respect of whom the Council holds a delegated power, that he has committed an act or omission which, in its opinion, is not considered to be of a serious nature, it may inflict upon him a warning or severe warning.

33. Name and other particulars to be removed from Register

The Council shall cause the Registrar to remove from the Register the name and other particulars of any pharmacist who has been deregistered as a pharmacist or foreign pharmacist, as the case may be, under this Act.

34. Restoration of name and other particulars to Register

(1) Where the name and other particulars of a pharmacist have been removed from the Register in accordance with this Act, the name and other particulars of that person shall not be restored to the Register except by order of the Council or of the Supreme Court.

(2) The Council may, on its own motion or on application of the person concerned and after holding such inquiry as it may determine, cause his name and other particulars to be restored to the Register.

PART VII – FINANCIAL PROVISIONS AND ACCOUNTS

35. General Fund

The Council shall set up a General Fund –

- (a) into which shall be paid –
 - (i) any grant, donation and contribution received by it;
 - (ii) any fee, rental or interest; and
 - (iii) any other sum which may lawfully accrue to it;

- (b) out of which all payments required to be made by the Council shall be effected.

36. Execution of documents

(1) Subject to subsection (2), no deed, instrument, contract or other document shall be executed or signed by or on behalf of the Council unless it is signed by the Chairperson or, in his absence, by the Vice-chairperson.

(2) No cheque shall be signed by or on behalf of the Council unless it is signed by –

- (a) the Chairperson or, in his absence, by the Vice-chairperson; and
- (b) the Registrar.

37. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Council.

38. Audit

(1) The Council shall keep proper accounts of all sums received or paid.

(2) The accounts for each financial year shall be audited by a qualified auditor appointed by the Council.

PART VIII – MISCELLANEOUS

39. Seal of Council

The Council shall have a seal which shall bear such device as it may approve.

40. Legal proceedings

(1) The Council shall act, sue and be sued in its corporate name.

(2) Service of process by or on the Council shall be sufficient if made by or on the Registrar.

41. Protection from liability

No liability, civil or criminal, shall be incurred by the Council, any member or officer, in respect of any act done or omitted by it or him in good faith in the discharge of its or his functions, or exercise of its or his powers, under this Act.

42. Confidentiality

(1) No member or officer shall, during or after his relationship with the Council, use or disclose any matter which comes to his knowledge in the performance of his functions, except for the purposes of administering this Act.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

43. Appeal against decision of Council

(1) A person who is aggrieved by the decision of the Council –

(a) not to register him as a pharmacist or foreign pharmacist; or

(b) to take any disciplinary measure against him,

may apply for a judicial review of the decision before the Supreme Court.

(2) On an application under subsection (1), the Supreme Court may make such order or give such directions in the matter as it may determine.

44. Offences

- (1) Subject to section 17(2), any person who –
- (a) is not registered or is deregistered as a pharmacist, foreign pharmacist or visiting pharmacist, or is suspended as a pharmacist or foreign pharmacist –
 - (i) practises pharmacy;
 - (ii) holds himself out or conducts himself as a pharmacist, foreign pharmacist or visiting pharmacist;
 - (iii) by any wilful act or omission, causes or induces any person to believe that he is a pharmacist, foreign pharmacist or visiting pharmacist;
 - (iv) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to any services he claims to have provided as a pharmacist, foreign pharmacist or visiting pharmacist; or
 - (v) takes or uses the name, description or title “Pharmacist”, “Foreign Pharmacist”, “Visiting Pharmacist” or “Registered Pharmacist”, or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, word or letter; or
 - (b) fraudulently procures or attempts to procure his registration as a pharmacist, foreign pharmacist or visiting pharmacist,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) For the purposes of subsection (1), the performance of any single act relating to the practice of pharmacy may be held to be sufficient evidence of such practice.

(3) Any person who –

- (a) wilfully fails to attend the Tribunal after having been summoned;
- (b) refuses to take an oath or make solemn affirmation or a declaration, as the case may be, before the Tribunal;
- (c) refuses, without reasonable excuse, to produce any record, document or article before the Tribunal;
- (d) gives false evidence or evidence which he knows to be misleading before the Tribunal;
- (e) obstructs the proceedings of a meeting of the Council or Tribunal;
- (f) molests any member of the Council or the Tribunal in the course of, or on account of, any investigation or proceedings under this Act; or
- (g) in any other manner, contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

(4) Any person who commits an offence under this Act shall, on conviction, where no specific penalty is provided, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

45. Regulations

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) shall be made after consultation with the Council.

(3) Any regulations made under subsection (1) may provide –

- (a) for a Code of Practice;
- (b) for the levying of fees and the taking of charges;
- (c) for the amendment of the Schedule;
- (d) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

46. Consequential amendment

The Pharmacy Act is amended –

- (a) in section 2 –
 - (i) by deleting the definitions of “assistant pharmacist”, “pharmacy technician”, “register” and “student”;
 - (ii) in the definition of “pharmacist”, by deleting the words “section 12” and replacing them by the words “section 18 of the Pharmacy Council Act 2015”;
 - (iii) in the definition of “pharmacy”, by inserting, after the words “may be”, the words “stored,”;
 - (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“Council” means the Pharmacy Council established under section 3 of the Pharmacy Council Act 2015;
- (b) in section 4 –
 - (i) by repealing paragraphs (a), (c), (d) and (f);

- (ii) by adding the following subsection, the existing provision being numbered subsection (1) –

(2) The Board shall, as and when required, provide the Council with such assistance as may be necessary for it to discharge its functions most effectively under the Pharmacy Council Act 2015.

- (c) by repealing section 6;
- (d) in section 11, by repealing paragraphs (b) and (c);
- (e) by repealing sections 12 to 16.

47. Savings and transitional provisions

(1) The Pharmacy Board established under section 3 of the Pharmacy Act shall, at the commencement of this Act, discharge the functions and exercise the powers of the Council under this Act until the first constitution of the Council.

(2) (a) Every person who is registered as a pharmacist and whose name appears in the register under the Pharmacy Act shall, at the commencement of this Act, be deemed to be registered as a pharmacist or foreign pharmacist, as the case may be, under this Act.

(b) The Registrar shall enter in the Register the name, address, qualification and other particulars of every pharmacist whose name, address, qualification and other particulars appear in the register of pharmacists kept under the Pharmacy Act.

(3) All proceedings, judicial or otherwise, commenced before and pending at the commencement of this Act, by or against the Pharmacy Board under the Pharmacy Act in relation to any matter referred to in the repealed sections 12 to 16 of that Act, shall be deemed to have been commenced, and may be continued, by or against the Council.

(4) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

48. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE

[Section 7(1)(a)]

PROCEDURE FOR ELECTION

1. Calling for nominations and appointment of nomination day

Within 6 months at the commencement of this Act and, thereafter, not less than one month before the expiry of the term of office of the members specified in section 7(1)(b), the Registrar shall publish, in the *Gazette* and such newspaper as he may determine, a notice –

- (a) inviting the submission of nominations; and
- (b) appointing a day, time and place for the nominations to be submitted.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member of the Council unless, on the nomination day –

- (a) he is a citizen of Mauritius;
- (b) he is a pharmacist having not less than 7 years' experience as pharmacist in Mauritius;
- (c) his nomination is supported, in writing, by not less than 5 pharmacists; and
- (d)
 - (i) he is not subject to any preliminary investigation under section 27;
 - (ii) no disciplinary proceedings are being held against him under section 28; and
 - (iii) no disciplinary measure has been taken against him during the last 5 years preceding the nomination.

3. Procedure after nomination

Where the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish, in the *Gazette* and such newspaper as he may determine, a notice –

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

4. Persons entitled to vote

(1) Every person who, on nomination day, is a pharmacist shall be entitled to vote at an election of the members.

(2) Every pharmacist shall vote for such number of candidates as there are vacancies available in the membership of the Council.

5. Election

(1) The election of the members of the Council shall be conducted under the supervision of the supervising officer or his representative, who shall submit to the Minister the results of the election forthwith.

(2) The Minister shall, within 21 days of receipt of the results of the election, publish in the *Gazette* the composition of the Council.
