GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 154 Promulgation of Pharmacy Act, 2004 (Act No. 9 of 2004), of the Parliament ... 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 154 2004

PROMULGATION OF ACT
OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 9 of 2004: Pharmacy Act, 2004.

ACT

To provide for the establishment and constitution of a professional Council for the pharmacy profession; to determine the powers, duties and functions of such Council; to regulate the registration of pharmacists and persons practising professions allied to the pharmacy profession; to specify the education and training and qualifications of persons practising such professions; to prohibit the practising of any such profession without being registered; and to provide for matters incidental thereto.

(Signed by the President on 13 July 2004)

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SCHEDULE
Repeal of laws

PREAMBLE

Recognising that the standards of professional practice and conduct of pharmacists and persons practising professions allied to the pharmacy profession in Namibia must be improved continuously;

Recognising that the evolving Namibian pharmaceutical care sector requires strong stewardship on behalf of the people of Namibia;

Recognising that this stewardship function includes both the formulation of rules to govern the professional practice and conduct of practitioners in that sector and to ensure compliance therewith;

Whereas that responsibility may be entrusted to a body led by the relevant profession in close partnership with the public and the State, with the understanding that it forms a distinct part of a wider statutory framework aimed at the protection and promotion of the health and welfare of the Namibian people;

And whereas that responsibility must be executed in an accountable fashion that effectively protects the public interest,

BE IT THEREFORE ENACTED by the Parliament of the Republic of Namibia, as follows :-

PART I
INTERPRETATION
Definitions

1. In this Act, unless the context otherwise indicates -

"annual fee" means the annual fee determined by the Council in terms of section 28(1)(b);

"appeal committee" means the appeal committee established by the Council in terms of section 12(3)(a);

"certificate of status" means a certificate setting out the information referred to in section 30(2);

"continuing professional development" means the continuing professional development contemplated in section 32;

"commencement date" means the date of commencement of this Act;

"committee" means a committee established in terms of section 12;

"community pharmacy" means a pharmacy where business is conducted with, and medicines supplied to, the public, and "community pharmacist" has a corresponding meaning;

"Council" means the Pharmacy Council of Namibia established by section 3;

"dentist" means a person registered as such in terms of the Medical and Dental Act, 2004;

"educational institution" means any university, college, technical college, technikon, training facility, or other similar or related institution where a qualification can be obtained which complies with the requirements of a prescribed qualification contemplated in section 18;

"education committee" means the education committee established in terms of section 12(4)(a);

"executive committee" means the executive committee established in terms of section 12(1)(a);

"fees", in relation to an application, means the fees relating to the application concerned determined by the Council in terms of section 28(1)(a), and "application fees" has a corresponding meaning;

"former Pharmacy Board" means the Pharmacy Board established by section 2 of the Pharmacy Professions Act, 1993 (Act No. 23 of 1993), and in existence immediately before the commencement date, and "former Board" has a corresponding meaning;

"inquiry" means a professional conduct inquiry in terms of PART VI;

"Interim Council" means the Interim Council established in terms of section 70;

"in writing", relating to any notice to be given, includes a notice, a record, the agenda or the minutes of a meeting, or an extract therefrom, sent, delivered or dispatched to the intended recipient by hand, by registered post or by means of facsimile or e-mail, or in any prescribed manner, addressed to the applicable address furnished in writing by that intended recipient, or which has been entered into the register in which the name of the registered person concerned appears;

"legal practitioner" means a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995);

"medical practitioner" means a person registered as such in terms of the Medical and Dental Act, 2004;

"medicine" means a medicine as defined in section 1 of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003);

"member of the Council" means a member of the Council appointed, designated or elected, as the case may be, in terms of section 7;

"Minister" means the Minister responsible for Health;

"Ministry" means the Ministry responsible for Health;

"other examining authority" means an examining authority recognised by the Minister in terms of section 18(4);

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for Health;

"pharmaceutical care" means the assessment and determination of the medicinal needs of a person and the provision of the medicine required by that person and of the necessary services and relevant information before, during and after the treatment concerned, in order to assure the optimally safe and effective treatment of such person to improve that person's quality of life, and includes a feedback mechanism to facilitate the continuity of such care by the person who provides it;

"pharmaceutical technician" means a person registered as such in terms of this Act, or regarded to be so registered in terms of section 71;

"pharmacist" means a person registered as such in terms of this Act, or regarded to be so registered in terms of section 71;

"pharmacist intern" means a person registered as such in terms of this Act, or regarded to be so registered in terms of section 71;

"pharmacist's assistant" means any person registered as such in terms of this Act, or regarded to be so registered in terms of section 71;

"pharmacy" means any place in which any act specifically pertaining to the profession of a pharmacist is performed;

"pharmacy business" means the business conducted by a pharmacist in terms of this Act, and "business of a pharmacist" has a corresponding meaning;

"practise", in relation to a profession to which this Act applies, includes the taking up of employment where any act specially pertaining to such profession is performed;

"preliminary investigation committee" means the preliminary investigation committee established in terms of section 12(5)(a);

"prescribe" -

(a) in relation to medicine, means the prescription of a medicine by a person lawfully authorised to prescribe such medicine for consumption by a person, and "prescribed medicine" or "prescription" has a corresponding meaning; and

(b) if not used in relation to medicine, means prescribed by regulation;

"president" means the president of the Council elected in terms of section 10;

"profession" means any of the professions referred to in section 17(1);

"professional conduct committee" means the professional conduct committee established by the Council in terms of section 12(2)(a);

"professional conduct inquiry" means an inquiry in terms of PART VI;

"public holiday" means a public holiday referred to in, or declared under, section 1 of the Public Holidays Act, 1990 (Act No. 26 of 1990);

"qualification" means any degree, diploma or certificate conferred upon a person after having been examined in respect of that person's proficiency in a particular field of study;

"register" -

(a) when used as a verb, means to register in terms of any of the applicable sections of this Act, and "registration" has a corresponding meaning; and

(b) when used as a noun, means a register referred to in section 25;

"registered person", in relation to any profession to which this Act applies, means a person who is registered in terms of section 22 in respect of such profession, or who is regarded to be so registered in terms of section 71;

"registrar" means the person appointed in terms of section 14(1) as the registrar of the Council and of the Councils established by law for the social work and psychology professions, the medical and dental professions, the nursing profession and the allied health professions, or the staff member referred to in section 71(7) acting as the registrar;

"registration certificate" means a registration certificate issued in terms of the applicable section of this Act;

"regulation" means any regulation made or in force in terms of this Act;

"repealed Act" means the repealed Pharmacy Profession Act, 1993 (Act No. 23 of 1993);

"rule" means any rule made by the Council in terms of section 67;

"scheduled substance" means any medicine or other substance included in any Schedule to the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003);

"staff member" means a staff member as defined in section 1(1) of the Public Service Act, 1995 (Act No. 13 of 1995);

"student" means any person registered as such in terms of this Act, or regarded to be so registered in terms of section 71;

"this Act" includes the regulations and the rules;

"unprofessional conduct" means improper or dishonourable or unworthy conduct, or conduct which, when regard is had to the profession of the person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy, and includes acts and omissions specified in terms of section 45;

"unregistered person", in relation to any profession to which this Act applies, means a person who is not registered in terms of section 22 in respect of such profession, or who is not regarded to be so registered in terms of section 71, and "a person not registered" has a corresponding meaning;

"veterinarian" means a veterinarian as defined in section 1(xii) of the South West African Veterinary Council Proclamation, 1984 (Proclamation No. AG. 14 of 1984); and

"vice-president" means the vice-president of the Council elected in terms of section 10.

Application of Act

2. This Act applies to the professions mentioned in sections 17(1).

PART II
ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE PHARMACY COUNCIL OF NAMIBIA

Establishment of Pharmacy Council of Namibia

3. (1) There is established a Council to be known as the Pharmacy Council of Namibia.

(2) The Council is a juristic person which is capable, in its own name, of suing and of being sued and, subject to the provisions of this Act, of performing all such acts as a juristic person may perform lawfully.

Succession from former Board to Council

4. (1) The Council is for all purposes the successor to the former Pharmacy Board.

(2) All assets, rights, obligations and liabilities which immediately before the commencement date vested in, or had been incurred by, the former Board referred to in subsection (1), pass to the Council on that date.

(3) A certificate issued by the registrar under his or her signature in which it is stated that any immovable property or mortgage bond or servitude or other real right or lease, or any other asset or right or liability, described or referred to in such certificate, has passed from the former Board to the Council in terms of subsection (2), will be sufficient proof that the asset, right or liability so described or referred to in such certificate vests in the Council.

(4) Upon the submission of a certificate referred to in subsection (3) and of the relevant title deeds, certificates or other documents to the Registrar of Deeds appointed in terms of section 2 of the Deeds Registry Act, 1937 (Act No. 47 of 1937), or to any other person in charge of any other office where a register or record relating to the ownership of, or entitlement to, an asset or right or liability described in such certificate is being kept, that Registrar or that other person, as the case may be, must make such entries or endorsements into or onto, or in or on, any relevant register, title deed, certificate or other document in his or her office, or submitted to him or her, as may be necessary to effect the transfer contemplated in that subsection into the name of the Council.

(5) Notwithstanding any other law, no stamp duties, transfer duty, value added tax, or any other duty, tax or levy, or any registration fees, payable in terms of any law relating to the acquisition or transfer of assets or rights or liabilities, will be payable in respect of any entry or endorsement made in terms of subsection (4), or the transfer of any asset, right or liability in terms of or pursuant to subsection (2).

(6) Upon the submission of a certificate referred to in subsection (3) to the banking institution or other institution or establishment at which the former Board referred to in subsection (1) conducted or operated any banking account or savings account, or held any investment or other asset, such banking institution or other institution or establishment must transfer such banking account or savings account or investment or asset, as the case may be, into the name of the Council.

(7) Any proceeding or cause of action pending or existing immediately before the commencement date, which had been commenced by or against the former Board, may be continued or enforced by or against the Council as if the repealed Act had not been repealed.

Objects of Council

5. The objects of the Council are -

(a) subject to the laws relating to the medical profession, the dental profession, the nursing profession and the allied health professions, to control and exercise authority in respect of all matters affecting -

(i) the education and training of persons in or relating to pharmaceutical care and practice;

(ii) the manner in which practices in connection with pharmaceutical service and care are to be exercised;

(b) in respect of the professions referred to in section 17(1) -

(i) to regulate the practising of such professions, and to ensure that all persons practising such professions are registered;

(ii) to regulate the manner in which practices in connection with the pharmaceutical care are exercised by any person practising any of such professions;

(iii) to encourage and promote efficiency in, and responsibility to, the practising of such professions, and to guide practitioners with regard to the respective codes of conduct and the ethical standards for or relating to their professions;

(iv) to promote the provision of pharmaceutical care and practice which complies with universal norms and values, in both the public sector and the private sector, with the goal of achieving definite therapeutic outcomes for the health and quality of life of a patient;

(v) to establish, develop and maintain universally acceptable standards of control over persons registered in terms of this Act by means of investigating in accordance with this Act, all complaints, accusations or allegations relating to the conduct of registered persons;

(vi) to promote liaison in the field of the education and training of persons relating to such professions, in Namibia and elsewhere;

(vii) give advice or render assistance to any educational institution or examining body with regard to the education, tuition and training of registered persons and prospective registered persons;

(viii) to register persons to practise such professions, or to remove the name of a registered person from a register;

(ix) to promote the continuing professional development of registered persons;

(x) to promote research in the fields of the professions to which this Act applies; and

(xi) to promote and control the standards of training of persons for the purpose of registration to practise any such profession;

(c) to assist in the promotion of the health of the population of Namibia;

(d) to be transparent relating to the pharmacy profession and to the general public in achieving its objects and in performing its functions and executing its powers;

(e) to maintain and enhance the dignity of the pharmacy profession and the integrity of the persons practising such profession;

(f) to deal firmly, fairly and promptly with a registered person against whom a charge, complaint or allegation of unprofessional conduct has been laid or whose fitness to practise is in doubt;

(g) to advise the Minister on any matter falling within the scope of this Act and relating to the professions to which this Act applies;

(h) to advise the Minister or any other person on any matter relating to the pharmacy profession; and

(i) to communicate to the Minister information on matters of public interest acquired by it in the course of the performance of its functions in terms of this Act.

Powers of Council

6. (1) In addition to the powers, duties and functions that the Council may exercise or perform in terms of this Act or of any other law, the Council may -

(a) buy, lease or otherwise acquire, or sell, let or otherwise dispose of, or hypothecate or pledge or otherwise deal with, any movable or immovable property of the Council or any right in or over or relating to such immovable property;

(b) take up, borrow, lend or invest money;

(c) open and operate on banking accounts and savings accounts;

(d) make or accept donations;

(e) enter into agreements with any person, body, institution or organisation on such terms and conditions as the Council and that person or such body, institution or organisation may agree upon;

(f) obtain information necessary to achieve its objects and perform its functions, including require any registered person in writing to submit to the Council such information as the Council may consider necessary;

(g) consider any matter affecting the professions to which this Act applies, or take such action in connection therewith as it may consider advisable;

(h) on application by any person, recognise any qualification held by that person in respect of the professions to which this Act applies (whether such qualification has been obtained in Namibia or elsewhere) as being equal to, either wholly or in part, to any qualification prescribed in terms of this Act;

(i) co-opt any person onto any of its committees;

(j) authorise a person to inspect, subject to section 61, the professional practice of a registered person and to report to the Council on his or her findings in respect of such inspection;

(k) charge the fees determined by it in respect of any inspection it may regard as necessary to enable it to consider an application for the approval of an educational institution, or for any amendment of a condition imposed on such institution; and

(l) do all such things as it may consider necessary or expedient in order to achieve the objects of this Act.

(2) Unless otherwise provided in this Act, the powers, duties and functions exercised or performed by the Council in terms of any provision of this Act, will be so exercised or performed by means of a decision made by the Council in accordance with section 11.

Composition of Council

7. (1) The Council must consist of the following 11 members -

(a) four persons appointed by the Minister, of whom -

(i) one registered person who must be a staff member in the Ministry and who, in the opinion of the Minister, is suitably qualified having regard to the functions of the Council;

(ii) one pharmacist who must be a staff member in the Ministry and who, in the opinion of the Minister, is suitably qualified having regard to the functions of the Council, and who must preferably have expertise and experience in primary health care matters;

(iii) two persons who must represent the public, and of whom -

(aa) one must be a legal practitioner having not less than ten years experience in the field of law; and

(bb) one must be a person who, in the opinion of the Minister, is suitably qualified having regard to the functions of the Council, but who is not a registered person;

(b) the Registrar of Medicines, who is a member *ex officio*;

(c) one person designated by the Vice-Chancellor of the University of Namibia, which person must be a pharmacist involved with the tuition, education or training of persons who will qualify, on the completion of such tuition, education or training, for registration in terms of this Act; and

(d) five persons elected in accordance with subsections (2), (3) and (4).

(2) The members of the Council referred to in paragraph (d) of subsection (1) must be pharmacists, elected by the pharmacists, the pharmaceutical technicians and the pharmacist assistants.

(3) No person is entitled to vote in an election referred to in subsection (2), unless that person -

(a) is a registered person, subject to subsection (5) of section 23;

(b) is a Namibian citizen; and

(c) is ordinarily resident in Namibia.

(4) The election of the members of the Council referred to in subsection (2) must be conducted in the prescribed manner and in accordance with the prescribed procedures.

(5) Notwithstanding subsection (4), the first election of the members of the Council after the commencement date must be conducted by the registrar or by a person designated in writing by him or her for such purpose.

(6) The expenses relating to the first election of members of the Council after the commencement date referred to in subsection (5) must be defrayed from moneys appropriated by Parliament for such purpose.

(7) (a) For the purpose of this section "Registrar of Medicines" means the Registrar of Medicines as defined in section 1(1) of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003);

(b) If the registered persons referred to in subsection (2) fail to elect a member or members, as the case may be, of the Council as contemplated in that subsection, the Minister may appoint in writing a person who is a pharmacist, or persons who are pharmacists, as the case may be, and whom he or she regards as a suitable person or as suitable persons to serve on the Council as such a member or members.

(c) A person appointed as a member of the Council in terms of paragraph (b) will be regarded as having been properly elected in terms of the relevant provisions of subsection (2) as such a member.

(8) The Minister must make known by notice in the *Gazette* the names of the members of the first Council constituted in terms of this Act after the commencement date, including the date of commencement and period of their respective terms of office.

(9) The registrar must make known by notice in the *Gazette* the names of the members of the Council subsequent to the first Council referred to in subsection (8), including any member contemplated in section 9(3), and the date of commencement and period of their respective terms of office.

(10) Subject to section 9, a member of the Council holds office for a period of five years, but is eligible for re-appointment, re-designation or re-election, as the case may be, as a member at the expiration of that period of time.

(11) The Registrar of Medicines must designate in writing a pharmacist employed by the Ministry to act as his or her alternate member of the Council.

(12) Before assuming office, a member of the Council must make and subscribe to the following oath or solemn affirmation before the Minister or a person designated by him or her in writing for such purpose :

" I, ……., do hereby swear/ solemnly affirm that I will at all times during my service as a member of the Council be faithful to the Republic of Namibia and uphold its Constitution and laws, and perform my functions and further the aims and objects of the Council to the best of my ability.".

(13) The Minister may -

(a) prescribe the composition of the Council and of any of the committees relating to -

(i) gender representation; and

(ii) representation from the different regions;

(b) extend, by notice in the *Gazette*, at any time and at his or her discretion, the term of office of any member of the Council.

Disqualification to be member of Council

8. A person does not qualify to be a member of the Council in terms of section 7, if that person -

(a) is not a Namibian citizen and ordinarily resident in Namibia;

(b) is disqualified in terms of this Act or of any other law from practising his or her profession;

(c) is an unrehabilitated insolvent;

(d) has been declared mentally ill by a competent court in terms of the Mental Health Act, 1973 (Act No. 18 of 1973);

(e) has been convicted of an offence in respect of which he or she was sentenced to imprisonment without the option of a fine, and in respect of which an appeal, if any, was not upheld;

(f) has been removed from an office of trust as a result of improper conduct; or

(g) has been found guilty, in terms of this Act, of unprofessional conduct.

Vacation of office by members of Council and filling of vacancies

9. (1) A member of the Council must vacate his or her office, if he or she -

(a) becomes subject to any disqualification mentioned or referred to in section 8;

(b) resigns from office by giving not less than one month's written notice to the Council;

(c) has been absent from three consecutive meetings of the Council without the written leave of the Council or of the president, if the Council has authorised the president to grant such leave;

(d) ceases to be ordinarily resident in Namibia; or

(e) is removed from office in terms of subsection (2).

(2) The Minister may remove a member of the Council from office, if the Minister is reasonably satisfied, after having given that member an opportunity to be heard, that that member -

(a) is physically or mentally unfit or unable to effectively perform his or her duties as a member;

(b) has neglected his or her duties as a member; or

(c) has contrary to section 11(10)(a) divulged a matter which has been entrusted to that member.

(3) (a) Any vacancy on the Council arising from any of the circumstances referred to in subsection (1) or (2), or caused by the death of any member, must be filled in the same manner in terms of section 7 as the person who has vacated his or her office or has died, as the case may be, had been appointed or elected, as the case may be, to such office.

(b) If any designated or elected member has vacated his or her office or has died and the Vice-Chancellor of the University of Namibia or the profession concerned, as the case may be, fails or refuses to designate or elect within a reasonable period of time a member to the Council as contemplated in paragraph (a), the Minister may appoint, at his or her discretion and in writing, any person as such a member.

(c) Any appointment made in terms of paragraph (b) is regarded to have been properly made in terms of the relevant provisions of section 7.

(d) A person filling an office which had been vacated, as described in paragraph (a) or (b), must meet the relevant qualifications relating to members as set out in section 8.

(e) The term of office of a member of the Council contemplated in paragraph (a) or (b) is for the unexpired portion of the term of office of the member who has vacated his or her office or who has died, as the case may be.

President and vice-president of Council

10. (1) (a) At the first meeting of every newly constituted Council held in terms of section 11(1)(a), the members of the Council must elect from their number the president and vice-president of the Council.

(b) For the purposes of paragraph (a) "newly constituted Council" means the Council constituted every five years in terms of section 7.

(2) The president and vice-president of the Council hold office as president and vice-president during their term of office as members of the Council, respectively, unless he or she resigns as president or vice-president, as the case may be, or ceases to be such a member.

(3) If for any reason the president of the Council is absent or unable to act as president, the vice-president of the Council may perform all the duties and functions and exercise all the powers of the president.

(4) If both the president and vice-president of the Council are temporarily absent for any reason, the president or vice-president, as the case may be, may appoint in writing another member of the executive committee referred to in section 12(1) to act in their stead during such absence.

(5) (a) If both the president and vice-president of the Council are absent from any meeting of the Council, the members present at such meeting may elect one member from their number to preside at such meeting.

(b) The person elected in terms of paragraph (a) to preside at the meeting concerned may at such meeting perform all the functions and exercise all the powers of the president.

(6) (a) If the office of president or of vice-president of the Council becomes vacant, the members of the Council must at the first meeting after which such vacancy occurred, elect from their number another president or vice-president of the Council, as the case may be.

(b) The president or vice-president elected in terms of paragraph (a) holds office for the unexpired portion of the term of office of his or her predecessor.

(7) (a) Subject to paragraph (b), no person may hold the office of president or vice-president of the Council for more than two consecutive terms of office.

(b) A term of office referred to in paragraph (a) does not include a term of office referred to in subsection (6)(b).

(8) The president or vice-president of the Council may vacate his or her office as president or vice-president, as the case may be, without terminating his or her membership of the Council.

(9) If the offices of president and of vice-president are both vacant at the same time, the registrar must convene a meeting of the Council in accordance with section 11(1), with the necessary changes, for the purpose of electing a new president and vice-president in accordance with subsection (1)(a) of this section.

(10) Both the president and the vice-president of the Council must be registered persons.

Meetings and decisions of Council

11. (1) (a) The registrar, or if the registrar is not available for any reason, a person appointed by the registrar in writing for such purpose, must convene the first meeting of every newly constituted Council.

(b) For the purposes of paragraph (a) "newly constituted Council" means the Council constituted every five years in terms of section 7.

(c) The registrar or the person appointed by the registrar in terms of paragraph (a), as the case may be, must -

(i) determine the date, time and venue for, and the agenda to be discussed at;

(ii) inform the members of the Council in such manner as he or she may consider appropriate, of the date, time and venue of;

(iii) act as chairperson at;

(iv) determine in writing the proceedings, including the proceedings relating to the election of the president and vice-president in terms of section 10(1)(a), to be followed at,

the meeting referred to in that paragraph, and must furnish, before the commencement of such meeting, every member of the Council with a copy of the agenda referred to in subparagraph (i).

(d) The president must -

(i) convene; and

(ii) determine the date, time and venue for, and the agenda to be discussed at,

all the meetings of the Council to be held subsequent to the first meeting referred to in paragraph (a).

(2) The president must convene a special meeting of the Council, to be held within a period of 30 days after the date of receipt of a written request by -

(a) the Minister; or

(b) not less than five members of the Council; or

(c) not less than one-third of the persons registered in terms of this Act in respect of the profession requesting such a meeting.

(3) A request made in terms of subsection (2) must clearly state the purpose for which the meeting is to be convened.

(4) The Council must hold not less than two meetings in each year, and may hold, in addition thereto, such other meetings as the Council may determine from time to time.

(5) The majority of the members constituting the Council form a quorum for a meeting thereof.

(6) (a) The Council may make rules in terms of section 67 make rules relating to the holding of, and procedures at, meetings of the Council.

(b) If the Council has not made rules referred to in paragraph (a), the president or any other person who presides at a meeting thereof must determine the procedures to be followed at the meeting over which he or she presides.

(7) (a) A decision of the majority of the members of the Council present at any meeting of the Council constitutes a decision of the Council.

(b) If all the members of the Council in writing under their signatures approve a written motion submitted by the registrar to all those members, then such motion so approved, notwithstanding paragraph (a) and subject to the other provisions of this section, will be regarded as a decision of the Council in terms of that paragraph.

(c) The registrar must submit a written decision of the Council made in accordance with paragraph (b) to the Council at its first meeting following the making of such decision.

(d) A written decision made in accordance of paragraph (b) -

(i) may be made at any time in between the meetings of the Council; and

(ii) must form a part of the written record of the proceedings of the meeting of the Council at which such written decision was submitted to the Council in terms of paragraph (c).

(8) The person presiding at a meeting of the Council -

(a) has a casting vote, in the event of an equality of votes, in addition to his or her deliberative vote; and

(b) must cause a written record to be kept of the proceedings,

at such meeting.

(9) A decision of the Council or an act performed on the authority of the Council is not invalid merely by reason of a vacancy on the Council or of the fact that a person who is not entitled to attend a meeting of the Council was in attendance when the decision was made or the act was authorised, if such decision was made or the act was authorised by the required majority of the members of the Council then present and entitled to sit as members.

(10) (a) Any member of the Council or of a committee thereof, or any member of a former Board referred to in section 4(1), must preserve secrecy in relation to all matters that has come to his or her knowledge as a result of being such a member, except in so far as the making known of any such matter is required by, or may be made in terms of, this Act or any other law, or is required by an order of a competent court.

(b) Any person who contravenes or fails to comply with paragraph (a) is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

Executive committee, professional conduct committee, appeal committee, education committee, and other committees

12. (1) (a) For the purposes of performing its duties or functions and exercising its powers in terms of this Act, the Council must establish an executive committee of the Council to so exercise the powers and perform the duties or functions of the Council, subject to paragraph (b), during the periods between the meetings of the Council.

(b) The executive committee -

(i) does not have, except in so far as the Council otherwise directs in writing, the power to set aside or amend any decision made by the Council; and

(ii) must report to the Council in writing, at the first meeting of the Council after a power, duty or function had been exercised or performed by the executive committee, that it had so exercised or performed such power, duty or function, including such other particulars relating thereto as the Council may require.

(c) The Council may amend or set aside, at the meeting referred to in subparagraph (ii) of paragraph (a), any decision or act of the executive committee made or performed in terms of that paragraph.

(d) The executive committee must consist of the president, the vice-president and not less than two other members of the Council elected by the Council from their number.

(e) The president will be the chairperson of the executive committee.

(2) (a) The Council must establish a standing professional conduct committee to exercise the disciplinary powers of the Council set out in PART VI.

(b) The professional conduct committee may consist, subject to paragraph (c), of such number of persons, including persons who are not members of the Council, as the Council may determine and appoint in writing to such committee.

(c) The professional conduct committee must consist of not less than -

(i) two registered persons;

(ii) one legal practitioner having not less than ten years experience in the practising of law; and

(iii) one other person who is not a registered person.

(d) The registered person referred to in subparagraph (i) of paragraph (c), will be subject to subsection (5) of section 23.

(e) The president will be the chairperson of the professional conduct committee.

(f) The professional conduct committee, when conducting an inquiry in terms of PART VI in respect of any registered person, may co-opt two other registered persons practising the profession of the registered person in respect of whom the inquiry is conducted, to act as members of such committee for the purpose of such inquiry.

(g) If the profession referred to in paragraph (f) does not have two registered members who may be co-opted as members of the professional conduct committee in terms of that paragraph, such committee may so co-opt two other persons who have, in the opinion of such committee, sufficient knowledge of the scope of practice, and sufficient experience in the practising, of such profession.

(h) A decision made by the majority of the members of the professional conduct committee at any meeting thereof constitutes a decision of such committee.

(i) In the event of an equality of votes relating to any decision to be taken by the professional conduct committee at any meeting thereof, the chairperson has a casting vote in addition to his or her deliberative vote.

(j) The chairperson of the professional conduct committee must -

(i) cause a written record to be kept of the proceedings of all the meetings of such committee; and

(ii) submit to the registrar a copy of the written record referred to in subparagraph (i) as soon as practicable after the conclusion of the meeting concerned.

(k) When the registrar receives, in terms of paragraph (j)(ii), the copies of the written record and of the decision concerned, he or she must submit such copies to all the members of the Council for ratification by those members of such decision of the professional conduct committee.

(l) Section 11(7)(b) applies, with the necessary changes, to the ratification by the Council of a decision of the professional conduct committee.

(m) The registrar may submit, notwithstanding paragraph (k), the copies of the written record and of the decision of the professional conduct committee referred to in that paragraph, to a meeting of the Council for ratification of such decision, if such meeting had been convened to take place within a period of 21 days from the date of the receipt by the registrar of such copies of the record and decision.

(n) Unless the Council ratifies a decision of the professional conduct committee, such decision will be null and void *ab initio*.

(3) (a) The Council must establish an appeal committee consisting of -

(i) a retired Judge, or a retired magistrate, or a retired Senior Counsel, or a Senior Counsel, who will be the chairperson of the appeal committee;

(ii) one or more members of the Council as the Council may determine;

(iii) one person who is a member of any Professional Council established in Namibia by or in terms of any law relating to any health profession to which this Act does not apply; and

(iv) one person who is not a registered person in terms of this Act or in terms of any law referred to in subparagraph (iii).

(b) For the purposes of this section -

(i) "Judge" means the Chief Justice or a Judge of the Supreme Court of Namibia referred to in Article 79(1), or the Judge-President or a Judge of the High Court of Namibia referred to in Article 80(1), of the Namibian Constitution;

(ii) "magistrate" means a magistrate as defined in section 1 of the Magistrates Act, 2003 (Act No. 3 of 2003), and who, upon the date of his or her retirement, had served as a magistrate for a period of not less than 20 years; and

(iii) "Senior Counsel" means a legal practitioner appointed by the President as a Senior Counsel of Namibia in terms of section 79(3) of the Legal Practitioners Act, 1995 (Act No. 15 of 1995).

(c) The appeal committee, when conducting an appeal, must co-opt two registered persons practising the profession of the registered person who appealed to such committee against the decision or the finding made, or the penalties imposed, or the refusal or failure to make a decision, as the case may be, by the Council or by the professional conduct committee, to act as members of the appeal committee for the purpose of such appeal.

(d) If the profession referred to in paragraph (c) does not have two registered members who may be co-opted as members of the appeal committee in terms of that paragraph, such committee must so co-opt two other persons who have, in the opinion of such committee, sufficient knowledge of the scope of practice, and sufficient experience in the practising, of such profession.

(e) The appeal committee must conduct an appeal in accordance with section 63.

(f) The chairperson of the appeal committee must -

(i) determine the procedures to be followed at a meeting of the appeal committee, including the requirements for a quorum, the procedures relating to the making of decisions and the manner of voting, if such procedures, requirements or manner of voting has not been prescribed;

(ii) cause a written record to be kept of the proceedings of the meeting at which the appeal concerned is considered; and

(iii) furnish the Council with a copy of the record kept in terms of subparagraph (ii) as soon as practicable after the conclusion of the meeting concerned.

(g) The appeal committee may co-opt any other person to assist such committee in the conducting of an appeal.

(h) No person who is a member of the professional conduct committee or of the preliminary investigation committee may be a member of the appeal committee.

(4) (a) The Council must establish a standing education committee, consisting of such number of persons, including persons who are not members of the Council, as the Council may determine and appoint to such committee.

(b) The education committee established in terms of paragraph (a) must -

(i) advise the Council with regard to; and

(ii) investigate and report to the Council in writing on any matter relating to,

any requirement or qualification pertaining to the registration, education, tuition or training of persons in or relating to the professions to which this Act applies.

(c) The president -

(i) will be the chairperson of the education committee; and

(ii) must determine the procedures to be followed at the meetings of the education committee.

(5) (a) The Council must establish a standing preliminary investigation committee, consisting of such members as the Council may determine.

(b) The preliminary investigation committee -

(i) must conduct a preliminary investigation into any matter in respect of which the Council or the professional conduct committee is to conduct an inquiry in accordance with PART VI, and referred to it by the Council or the professional conduct committee, as the case may be;

(ii) must submit a written report to the Council or the professional conduct committee, as the case may be, relating to the preliminary investigation conducted in terms of subparagraph (i), including its findings and recommendations in respect of the matter concerned;

(iii) must perform such other functions as the Council may determine and inform such committee in writing; and

(iv) may co-opt any registered person as a member of such committee.

(c) The Council must appoint the members of the preliminary investigation committee, including the chairperson thereof.

(d) The president or the vice-president may not be members of the preliminary investigation committee.

(e) The chairperson of the preliminary investigation committee must determine the procedures to be followed at the meetings of the preliminary investigation committee.

(6) (a) The Council may establish from time to time one or more committees, consisting of such number of persons, including persons who are not members of the Council, as the Council may determine and appoint thereto in writing.

(b) The functions of a committee established in terms of paragraph (a) will be -

(i) to advise the Council on such matters as it may refer; or

(ii) to assist the Council in the exercise of such of its powers or the performance of such of its duties or functions in terms of this Act as the Council may delegate or assign,

to the committee concerned.

(c) The Council may appoint the members of a committee established in terms of paragraph (a) pursuant to -

(i) a decision of the Council; or

(ii) a nomination, given to the Council in writing, upon the Council's written invitation, by the association, if any, of the profession concerned.

(d) A delegation or assignment by the Council in terms of paragraph (b)(ii) -

(i) must be made in writing;

(ii) may be made subject to such conditions and restrictions as the Council may determine; and

(iii) may be withdrawn or amended by the Council at any time.

(e) The Council is not divested of any power delegated in terms of this subsection, and may amend or set aside any decision made by a committee established in terms of paragraph (a) in the exercise of a power so delegated.

(f) The Council may -

(i) dissolve or reconstitute, at any time; and

(ii) designate one of the members as the chairperson of,

a committee established in terms of paragraph (a).

(7) Sections 11(5), (6)(b), (7), (8), (9) and (10) apply with the necessary changes to the meetings of a committee referred to in subsection (1), (4), (5) and (6).

(8) (a) If a committee is unable, for any reason, to reach a decision on any matter, such committee must refer such matter to the Council for a decision.

(b) A decision made by the Council on any matter referred to it in terms of paragraph (a) will be regarded as a decision made by the committee concerned.

(9) A person appointed in terms of this section to a committee may vote on any matter before such committee.

(10) The Council may remove from office any member of any committee referred in this section, including an elected or a nominated member, if the Council is reasonably satisfied, after having given that member an opportunity to be heard, that that member -

(a) is physically or mentally unfit or unable to effectively perform his or her duties as a member;

(b) has neglected his or her duties as a member; or

(c) has divulged, contrary to section 11(10)(a), a matter which had been entrusted to that member.

(11) Unless otherwise provided for in this Act, a committee established by or in terms of this section must meet at such times and places as the Council may determine and inform such committee in writing.

Funds of Council

13. (1) The funds of the Council consist of -

(a) all annual fees, application fees, examination fees, registration fees, fees relating to investigations and any other fees payable to the Council in terms of this Act;

(b) donations or grants made for the benefit of the Council;

(c) the assistance contemplated in subsection (2);

(d) interest derived from investments made in terms of subsection (4);

(e) any fine paid to the Council in terms of section 50(1)(d); and

(f) all other moneys received or made available for the benefit of the Council.

(2) The Minister may grant, subject to such conditions as he or she may determine and in consultation with the Minister responsible for Finance, to the Council from moneys appropriated by Parliament for such purpose, financial assistance to exercise its powers and perform its duties and functions.

(3) The Council must use its funds for the purpose of defraying expenses incurred in connection with the exercise of its powers and the performance of its duties and functions.

(4) The Council may -

(a) invest any unexpended portion of its moneys; and

(b) establish such reserve funds and pay into such funds such moneys as it may consider necessary.

(5) The Council must cause -

(a) full and correct accounts to be kept of all moneys received or expended by it;

(b) an annual statement of its income and expenditure to be prepared in respect of every financial year, including a balance sheet reflecting its financial position as at the end of the financial year concerned;

(c) the annual statement and balance sheet referred to in paragraph (b) to be audited annually by a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951); and

(d) a copy of the audited annual statement and balance sheet referred to in paragraph (c) -

(i) to be submitted to every member of the Council; and

(ii) to lie open at the registrar's office for inspection by any registered person.

(6) (a) The Council must submit in each year, within a period of six months after the closing of the Council's financial year, to the Minister a report on its activities during such financial year, together with a copy of the audited statement and the balance sheet referred to in subsection (5)(c), in respect of the financial year concerned.

(b) The Minister must table the report, audited annual statement and the balance sheet referred to in paragraph (a) in the National Assembly within a period of six months after the date of receiving such report and audited statement.

(7) The financial year of the Council ends on the last day of March in each year.

Appointment of registrar and staff

14. (1) The Council, and the Councils established by law for the social work and psychology professions, the medical and dental professions, the nursing profession and the allied health professions, acting conjointly -

(a) must appoint a registrar to exercise the powers, and perform the duties and functions, of the registrar in terms of section 15, including such additional powers, duties and functions as the Minister may prescribe; and

(b) may appoint one or more assistant registrars;

at such remuneration and subject to such conditions of service as such Councils so acting may determine.

(2) The registrar appointed in terms of subsection (1) must act, notwithstanding any other provisions of this Act, as the registrar of the Council and of all the Councils referred to in that subsection.

(3) The Council and the Councils referred to in subsection (1) must enter into a written agreement to provide for -

(a) the establishing and the conducting of the office of the registrar and all matters relating to such office;

(b) the contributions to be made by the respective Councils in respect of -

(i) the expenses incurred or to be incurred relating to the establishing of the office of the registrar referred to in paragraph (a);

(ii) the payment of the remuneration payable to the registrar, to the assistant registrar and to the other persons employed by the Council and such other Councils conjointly in terms of this section; and

(iii) the running costs and the other expenditure relating to the office of the registrar referred to in paragraph (a); and

(c) such other matters as may be necessary for the efficient joint conducting of the office of the registrar referred to in paragraph (a).

(4) The registrar must -

(a) determine, with the written approval of the Council and of the Councils referred to in subsection (1), acting conjointly, the staff establishment of such Councils; and

(b) employ persons, at such remuneration and subject to such other conditions of service as the Council and the Councils referred to in subsection (1), acting conjointly, may determine, to assist the Council and such other Councils with the performing of all the work and activities which may be necessary for the exercise and performance of the powers, duties and functions of the Council and of such other Councils in terms of this Act or of any other law.

(5) Notwithstanding subsection (4), the registrar may appoint, without the approval of the Council and of the Councils referred to in subsection (1), temporary employees for a period not exceeding two calendar months at such daily remuneration as he or she may consider appropriate.

(6) The remuneration referred to in subsections (1), (4) and (5) must be paid from the funds of the Council and of the Councils referred to in subsection (1) in accordance with the written agreement entered into in terms of subsection (3).

Powers, duties and functions of registrar

15. (1) The registrar -

(a) must exercise the powers and perform the duties and functions assigned to or imposed upon the registrar by or in terms of this Act;

(b) is the secretary of every meeting of the Council and of its committees, unless provided otherwise in this Act;

(c) is responsible for the administrative work pertaining to the functions of the Council, including the keeping, on behalf of the Council, of the registers referred to in section 25;

(d) is responsible for the administrative work pertaining to the functions of every committee of the Council;

(e) is the accounting officer relating to the funds of the Council;

(f) must collect and recover, for the benefit of the Council, all moneys due or accruing to the Council;

(g) has the administrative control, for and on behalf of the Council, over payments made from the funds of the Council;

(h) must keep books of account, or cause such books of account to be kept, as are necessary to fairly represent the state of affairs and business of the Council

and to explain the transactions and financial position relating to the business of the Council; and

(i) must exercise such powers and perform such duties and functions as may from time to time be delegated or assigned to or imposed upon the registrar by the Council in terms of section 65, but the Council is not divested of any power exercised by the registrar under any power so delegated, and may amend or set aside any decision of the registrar in the exercise of such power.

(2) (a) The registrar may in writing authorise the assistant registrar or any member of his or her staff to exercise or perform any power, duty or function conferred or imposed upon him or her by, or delegated or assigned to him or her in terms of, this Act, including a power or duty or function delegated or assigned to him or her by the Council in terms of subsection (1)(i).

(b) The registrar is not divested of any power exercised by the assistant registrar or any member of his or her staff in terms of paragraph (a), and may amend or set aside any decision made by that assistant registrar or that member in the exercise of a power so delegated.

(3) If the registrar is absent or unable to exercise or perform any of his or her powers, duties or functions in terms of this Act or of any other law -

(a) the person appointed as assistant registrar in terms of section 14(1)(b) may exercise or perform, during the period of time that the registrar is so absent or unable to act, the powers, duties or functions of the registrar; or

(b) if no assistant registrar has been appointed in terms of that section, the Council may appoint in writing a person as acting registrar for the period of time of the registrar's absence or inability to act.

(4) A person appointed as acting registrar in terms of subsection (3)(b) may exercise and perform such of the powers, duties or functions of the registrar, subject to such conditions and restrictions, as the Council may specify in writing at that person's appointment in terms of that subsection.

PART III
EDUCATION, TUITION, TRAINING, QUALIFICATIONS AND REGISTRATION

Control over education and training

16. (1) Notwithstanding anything in any other law, but subject to this Act and to the laws relating to the medical and dental profession, the nursing profession and the allied health professions, no person or educational institution may offer or provide social work and psychology in Namibia any education, tuition or training having as its object to qualify any person to practise any profession to which this Act applies, or to perform any other activity directed at the physical examination of any person, or the diagnosis, treatment, pharmaceutical care, or the prevention of any physical defect, illness, disease or deficiency in persons, unless such education, tuition or training has been approved by the Council as being appropriate education, tuition or training for such purposes.

(2) Any person or educational institution intending to offer the education, tuition or training referred to in subsection (1) must apply, before offering such education, tuition or training, to the Council in writing and in such form and manner as the Council may determine from time to time, for the written approval of the Council in terms of that subsection.

(3) An application in terms of subsection (2) must be accompanied by -

(a) such particulars and documents regarding such education, tuition or training as may be prescribed, or as the registrar or the Council may require; and

(b) payment of such fees as the Council may determine in respect of such applications, or proof of the payment thereof to the Council.

(4) After considering an application and the relevant documents and particulars referred to in subsection (3), the Council, at its discretion, may -

(a) grant the approval; or

(b) refuse the approval.

(5) The registrar must -

(a) inform an applicant in writing of any decision made in terms of subsection (4);

(b) issue, if approval had been granted, to the applicant a certificate of approval; and

(c) enter particulars of the approval referred to in paragraph (b) into the register concerned; or

(d) inform the applicant in writing, if the approval had been refused, the reasons for such refusal.

(6) An approval granted in terms of subsection (4)(a), in addition to any prescribed condition, may be made subject to such conditions and requirements, and be granted for such period of time, as the Council may determine at the time of such approval, and specify in the certificate of approval concerned.

(7) The Council may appoint in writing from time to time a person -

(a) to investigate, subject to section 56, whether or not the prescribed conditions and the conditions and requirements determined by the Council in terms of subsection (6) in respect of a person or an educational institution, are being complied with by that person or such educational institution; and

(b) to report to the Council on the investigation conducted in accordance with paragraph (a) in such form and manner as the Council may determine and inform that person in writing.

(8) (a) The Council may withdraw in writing an approval granted in terms of subsection (4)(a), if it is satisfied, after having given the person or educational institution concerned an opportunity to be heard, that that person or such educational institution has failed to comply with any applicable prescribed condition, or condition or requirement determined in terms of subsection (6) and specified in the certificate of approval concerned.

(b) The registrar must by notice in writing inform the person or educational institution concerned of any decision of the Council in terms of paragraph (a).

(9) A person or educational institution referred to in subsection (8) must within a period of 30 days after the date of the notice referred to in paragraph (a) of that subsection return the certificate of approval concerned to the Council.

(10) The registrar must -

(a) cancel a certificate of approval referred to in subsection (9); and

(b) enter such cancellation into the register concerned.

(11) Any person who contravenes or fails to comply with subsection (1) or (9) is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

Registration prerequisite for practising

17. (1) Unless otherwise provided in this Act, no person is entitled to practise within Namibia the profession of -

(a) pharmacist;

(b) pharmacist intern;

(c) pharmaceutical technician; or

(d) pharmacist's assistant,

unless that person is registered in terms of this Act to practise the profession concerned.

(2) Unless otherwise provided in this Act and except in so far as it is authorised by the Medicines and Related Substances Control Act 2003 (Act No. 13 of 2003) or the laws relating to the medical and dental professions, the nursing profession, the allied health professions, the psychology profession or the veterinary profession, no person is entitled to practise within Namibia for gain any profession, the practising of which mainly consists of -

(a) the preparing or compounding of any medicine or medicinal or chemical substance for supply as a medicine;

(b) the supplying of any medicine on the prescription of a medical practitioner, dentist or veterinarian;

(c) the manufacturing of medicine or the supervising of the manufacturing thereof;

(d) the furnishing of advice to any person with regard to any medicine;

(e) the providing of storage for, and the distribution of, pharmaceuticals and medicines;

(f) the conducting of research and the development of pharmaceutical sciences and clinical pharmacology;

(g) the performing of any act prescribed by or in terms of this Act or any other law as an act that may be performed only by a pharmacist, pharmacist intern, pharmacist assistant or pharmaceutical technician;

(h) the performing of any other act, whether or not defined in this Act, specially pertaining to the profession of a pharmacist, pharmacist intern, pharmacist assistant or pharmaceutical technician;

(i) rendering pharmaceutical services or care,

unless that person is registered by the Council for such purpose.

(3) Subsection (2) may not be construed as permitting the performance or any act by persons registered in terms of the laws referred to therein which is not performed in the ordinary course of the practising of his or her profession.

(4) Any person who contravenes subsections (1) or (2) is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Minimum requirements of study for registration

18. (1) The Minister may prescribe from time to time, on the recommendation of the Council and in respect of the professions to which this Act applies, the qualifications obtained by virtue of examinations conducted by any educational institution or other examining authority, which, when held singly or conjointly with any other qualification, entitles the holder thereof to registration in terms of this Act, if that holder has complied, before or in connection with or after the acquisition of the qualification concerned, with such other requirements and conditions as may be prescribed in terms of or required by this Act in respect of such registration.

(2) No qualification obtained by virtue of examinations conducted by an educational institution or other examining authority situated outside Namibia may be prescribed in terms of subsection (1), unless -

(a) such qualification entitles the holder thereof to practise the profession concerned in the country or state in which such educational institution or other examining authority is situated; and

(b) the Minister is satisfied that such qualification is of a standard of professional education not lower than the qualification prescribed in terms of subsection (1) in respect of the profession concerned.

(3) The Minister may prescribe, on the recommendation of the Council, the requirements with which the examining authorities referred to in subsection (1) must comply.

(4) For the purposes of this section, "other examining authority" means any examining authority recognised by the Minister by notice in the *Gazette* for the purposes specified in such notice.

Practical training prerequisite for registration as pharmacist

19. (1) Notwithstanding anything contained in this Act, no person who has obtained a qualification prescribed in terms of section 18 may be registered as a pharmacist in terms of this Act, unless that person has completed as a pharmacist intern, to the satisfaction of the Council and subject to such conditions as may be prescribed, for a period of not less than one year or periods of not less than one year in the aggregate, the prescribed practical training in Namibia -

(a) under the supervision of a tutor pharmacist;

(b) in a pharmacy; and

(c) by virtue of a contract of training lodged with the registrar and approved by the Council in writing prior to the commencement of such training.

(2) A tutor pharmacist referred to in subsection (1)(a) may not enter into a contract of training referred to in subsection (1)(c) with a pharmacists intern, unless the pharmacy referred to in subsection (1)(b) is registered with the Council as a training pharmacy for the purposes of this section.

(3) The Minister may prescribe the requirements relating to the registration by the Council of a pharmacy referred to in subsection (1)(b) as a training pharmacy for the purposes of this section, including the procedures relating to the application for such registration.

(4) Section 22 applies, with the necessary changes, to an application for the registration of a pharmacy as a training pharmacy.

(5) The Council may determine, subject to section 28(1), the application fees payable in respect of an application for the registration as a training pharmacy in terms of this section.

(6) For the purposes of this section, "tutor pharmacist" means -

(a) the pharmacist who;

(b) the managing director of the company which;

(c) the manager of the close corporation which,

is registered as the owner of the training pharmacy concerned.

(7) A pharmacist intern is regarded, during the final month of the period of practical training referred to in subsection (1), to be a pharmacist.

Registration of pharmacist's assistant and pharmaceutical technician

20. (1) Any person who -

(a) has obtained credit for the first year of study for a prescribed qualification in pharmacy at an institution approved by the Council, and who is registered with the Council as a pharmacy student; or

(b) is in possession of a qualification contemplated in subsection (3),

may on payment of the prescribed fee be registered as a pharmacist's assistant.

(2) Any person holding a qualification in pharmacy which he or she has obtained outside Namibia, and which is not a qualification which, when held singly or conjointly with any other qualification, entitles the holder thereof to registration as a pharmacist in terms of this Act, may on payment of the prescribed fees be registered as a pharmacist's assistant, provided that -

(a) such person has complied with the prescribed requirements; and

(b) the Council is satisfied that he or she is suitable to be registered as a pharmacist's assistant.

(3) The Council may by notice in the *Gazette* make rules regarding -

(a) the recognition of a qualification obtained in Namibia entitling the holder thereof to be registered as a pharmacist's assistant and the conditions subject to which that registration may take place; and

(b) the registration of pharmacist's assistants, and the conditions or requirements applicable to persons registered as such.

(4) A pharmacist's assistant who refuses or fails to comply with any condition or requirement applicable to him or her in terms of subsection (3) is guilty of unprofessional conduct, and on conviction in a professional conduct inquiry liable to any one or more of the penalties referred to in section 50.

(5) The Minister may prescribe, on the recommendation of the Council, the requirements relating to the registration of a pharmaceutical technician, including the qualifications required for, and the procedures relating to, such registration.

Application for registration

21. (1) Any person who wishes to be registered in terms of this Act must submit to the registrar an application in the form determined by the Council.

(2) An application referred to in subsection (1) must be accompanied by -

(a) the certificate relating to any qualification upon which the applicant relies for registration in terms of this Act, or a photocopy or other copy of such certificate duly certified by a commissioner of oaths, to the satisfaction of the registrar, as a true copy of the original;

(b) if any period of practical training is prescribed in respect of the profession concerned, written proof to the satisfaction of the Council that the applicant has satisfactorily completed the period of practical training so prescribed and has met all the requirements prescribed in respect of such practical training;

(c) if the applicant was registered previously in a country other than Namibia to practise the profession in respect of which registration is applied for, or is at the time of such application for registration still so registered, a letter of good standing from the registering authority concerned of each country in which the applicant was registered or practised his or her profession during the five years immediately preceding the date of the application, or is still so registered or practising, which certificate must be issued not more than 120 days before the date of the submission of such application;

(d) such documents and information as may be prescribed in respect of such application;

(e) such additional documents or information as the registrar or the Council may require in respect of such application; and

(f) payment of the fees determined by the Council in respect of such application, or written proof of the payment thereof to the Council.

(3) Notwithstanding paragraph (a) of subsection (2), the Council may require that a copy of a certificate referred to in that paragraph must be verified in the manner determined by the Council.

Procedures relating to registration

22. (1) The registrar must refer an application for registration submitted to him or her in terms of subsection (1) of section 21, including the documents and other information referred to in subsection (2) of that section, to the Council for its decision.

(2) The Council, after having considered the application for registration, and the documents and other information, referred to in subsection (1), and where applicable, the results of any evaluation made in terms of subsection (3), may -

(a) grant the application for registration, if it is satisfied that the applicant -

(i) meets the requirements relating to study and qualifications prescribed in terms of section 18(1) in respect of the profession concerned;

(ii) has complied with section 21;

(iii) is a fit and proper person to be so registered; and

(iv) has paid to the Council the fees determined in respect of such application; or

(b) refuse the application, if the Council is satisfied that the applicant -

(i) does not meet the requirements relating to study and qualifications prescribed in terms of section 18(1) in respect of the profession concerned; or

(ii) has not complied with section 21; or

(iii) is not a fit and proper person to be so registered; or

(iv) has not paid to the Council the fees determined in respect of such application.

(3) (a) Notwithstanding any examination that may be prescribed, the passing of which is a requirement for registration in terms of this Act, the Council may require an applicant to pass to the satisfaction of the Council an evaluation referred to in paragraph (b), in order to determine whether or not the applicant -

(i) possesses adequate professional knowledge, skill and competence in the profession for which registration has been applied for; and

(ii) is proficient in the official language of Namibia.

(b) The Council may determine for the purposes of paragraph (a) from time to time -

(i) the nature, contents and the extent or ambit of the evaluation to be conducted;

(ii) the persons who must serve on the panel that has to conduct the evaluation,

in accordance with that paragraph.

(c) The applicant concerned must pay the fees determined by the Council in respect of an evaluation conducted in terms of this section before sitting for any such evaluation.

(4) The Council must -

(a) inform the applicant concerned in writing of any decision of the Council in terms of this section;

(b) issue, if the registration had been granted, to the applicant concerned a certificate relating to the registration concerned and enter his or her name into the relevant register;

(c) inform the applicant concerned in writing, if the registration had been refused, as soon as practicable of the reasons for such refusal.

(5) Notwithstanding the other provisions of this section, the registrar, acting for, on behalf and in the name, place and stead of the Council, may exercise the powers, and perform the duties and functions, of the Council in terms of this section.

(6) The Council -

(a) is not divested of any power, duty or function referred to in; and

(b) may amend or set aside any decision made by the registrar in the exercising of any power or the performance of any function or duty, in terms of,

subsection (5).

(7) The registrar must submit in writing to the Council at every meeting thereof -

(a) the full names and other particulars relating to every person registered by the registrar acting in terms of subsection (5), during the period following the previous submission by the registrar to the Council in accordance with this subsection; and

(b) particulars of the applications for registration refused by the registrar acting in terms of subsection (5), and the reasons for such refusal.

(8) Notwithstanding subsection (5), the registrar may refer any application for registration in terms of this section to the Council for consideration.

Conditional registration

23. (1) The Council may register any person, subject to the other provisions of this section, who is not in possession of a qualification prescribed in terms of section 18(1) and who lodges an application for registration with the Council, if the person who has lodged such application -

(a) is in possession of a qualification which the Council is satisfied as being of a standard of professional education not lower than the standard prescribed in terms of that section; and

(b) (i) has received such additional prescribed education, tuition or training, whether in or outside Namibia; and

(ii) has passed the prescribed additional examinations, whether in or outside Namibia,

as the Council may determine.

(2) (a) For the purposes of paragraph (b) of subsection (1), the Council may register conditionally an applicant referred to in, and who complies with paragraph (a) of, that subsection -

(i) for such period or periods of time; and

(ii) on such conditions subject to which the applicant may practise his or her profession,

as the Council may determine.

(b) When the Council registers a person in terms of paragraph (a) conditionally, the Council must issue to that person a certificate of conditional registration in such form as the Council may determine.

(c) The certificate issued in accordance with paragraph (b) must specify the period or the periods of time referred to in paragraph (a)(i), and particulars relating to the conditions referred to in paragraph (a)(ii).

(3) (a) In order to decide whether or not to register any person conditionally in terms of subsection (2), the Council may require the applicant concerned to pass to its satisfaction an evaluation, in order to determine whether or not that applicant -

(i) possesses adequate professional knowledge, skills and competence in or relating to the profession in respect of which registration has been applied for; and

(ii) is proficient in the official language of Namibia.

(b) The Council may determine, for the purposes of paragraph (a), from time to time -

(i) the nature and requirements of or relating to the evaluation to be conducted; and

(ii) the constitution of the panel which has to conduct the evaluation,

referred to in that paragraph.

(c) The applicant concerned must pay to the Council the fees determined by it in respect of an evaluation conducted in terms of this section before sitting for any such an evaluation.

(4) As soon as any person in possession of a conditional registration certificate has complied with subsection (1)(b) and upon the expiry of any period or periods of time determined by the Council in terms of subsection (2), and specified in such conditional registration certificate, he or she may apply in writing to the Council to sit for the prescribed additional examinations referred to in subsection (1)(c).

(5) A person conditionally registered in terms of this section may not be appointed or elected as a member of the Council or of a committee of the Council, or vote or otherwise participate in the election of the members of the Council.

(6) The Council may withdraw in writing, at any time during the period of time for which a conditional registration certificate had been issued, and after having afforded the holder thereof an opportunity to be heard, such certificate and remove the name of the person concerned from the relevant conditional registration register, if the Council is satisfied that the person to whom such certificate had been issued has refused or failed to comply with all the conditions or requirements specified on such certificate.

(7) Notwithstanding subsection (6), any person in possession of a conditional registration certificate and who performs any act which he or she may not perform in respect of the profession concerned, or which he or she performs in contravention of any condition or requirement of such conditional registration, is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

(8) No person who is in possession of a qualification prescribed in terms of section 18(1), and which qualification entitles him or her to registration in terms of section 22, may be registered conditionally in terms of this section.

Registration of person registered conditionally

24. Any person registered conditionally in terms of section 23 may apply to the Council, as soon as he or she has complied with that section and the conditions specified in the conditional registration certificate concerned, for registration in terms of section 22.

Keeping of registers

25. (1) (a) Subject to section 71, the Council must continue to keep, for the purposes of this Act, the registers which were kept before the commencement date in terms of the provisions of any law repealed by section 72 and which registers relate to the persons required to be registered to practise certain professions in terms of this Act.

(b) The registers referred to in paragraph (a) are for all purposes regarded to be registers established in terms of this Act.

(2) The Council must establish and keep in respect of the persons registered in terms of this Act to practise the professions concerned, and the pharmacies and the owners of pharmacies registered, separate registers in respect of -

(a) such different professions or registered persons as the Council may determine;

(b) the registration and conditional registration of persons;

(c) students or interns who are completing training or internships in Namibia relating to a qualification required for registration to practise any such profession;

(d) training pharmacies registered in terms of section 19, including the tutor pharmacists in respect of such training pharmacies; and

(e) pharmacy practices owned by companies, close corporations and pharmacists, and registered in terms of this Act.

(3) The registrar must enter or cause to be entered into the appropriate register referred to in subsection (2) the particulars relating to every person whose application for registration had been granted in terms of this Act, or relating to the company, close corporation or pharmacy concerned, as the case may be, including -

(a) his or her full names, identity number, physical address, postal address and details of any other means by which that person may be contacted;

(b) the qualification in terms of which he or she is so registered;

(c) the date of such registration and the registration number concerned;

(d) the registration category in which he or she holds such registration and particulars of his or her speciality or professional category, if any; and

(e) such other particulars as the Council may determine from time to time or as may be prescribed.

(4) (a) The Council may amend, with the written approval of the Minister, the name of a register kept in terms of subsection (2).

(b) If the Council amends the name of a register in accordance with paragraph (a), any person who immediately before such amendment was registered in such register will be regarded for all purposes to be registered in the register bearing the amended name.

(5) (a) If the Council intends to amend the name of a register in terms of subsection (4), the Council must publish in the *Gazette* and in such newspapers as the Council considers appropriate, a notice of such intention and the date with effect from which the name of such register will be amended.

(b) A notice in terms of paragraph (a) must be published not less than 30 days before the date of the intended amendment of the name of the register concerned.

(6) Every registered person who changes his or her address, must notify the registrar in writing and within a period of 30 days after such change of address of his or her new address.

(7) The registers must lie open for inspection during ordinary office hours at the offices of the Council.

(8) The Council may direct the registrar in writing to perform the functions of the Council in terms of this section for and on behalf of the Council in the manner and to the extent, and subject to the conditions, as the Council may determine and specify in such directive.

Removal of name from register and effect of such removal

26. (1) The Council may remove from the register concerned the name of any registered person -

(a) who has failed to notify the registrar in terms of section 25(6) of any change of his or her address, or who has failed to notify the registrar of his or her correct physical address, within a period of three months after the date of a request for particulars of such physical address by the registrar by prepaid registered letter addressed to that registered person at his or her postal address as it appears in the register concerned;

(b) who has requested in writing that his or her name be removed from the register;

(c) who has failed to pay to the Council on or before 31 March of the year concerned the annual fees determined by the Council in terms of section 28(1)(c) and payable by that registered person;

(d) whose name has been removed from the register, record or roll of any educational institution from which that person received the qualification by virtue of which he or she was registered in terms of this Act;

(e) who has been registered in error or as a result of fraud or in circumstances not authorised by this Act; or

(f) who has been found guilty of unprofessional conduct and upon whom the penalties referred to in section 50(1)(c) has been imposed.

(2) (a) The registrar may in respect of a request by a registered person in terms of subsection (1)(b) require that person to lodge with the registrar an affidavit to the effect that no proceedings relating to any unprofessional

conduct or to any criminal act have been, or are likely to be, instituted against him or her.

(b) Particulars of the reason for every removal of a name from a register in terms of subsection (1) must be entered into such register as a part of such removal.

(3) The registrar, or a person designated in writing by the registrar for such purpose, must by notice in writing inform the person whose name has been removed from the register in terms of subsection (1) that his or her name has been so removed and the reason for such removal.

(4) A notice referred to in subsection (3) must be served either by prepaid registered letter addressed to the person referred to in that subsection at his or her postal address as it appears in the register concerned, or in the prescribed manner.

(5) After the date of service of a notice in terms of subsection (4), until such time as the name of the person referred to in subsection (1) is restored to the register concerned -

(a) the registration certificate relating to that person is regarded to be withdrawn; and

(b) that person must cease to practise the profession in respect of which he or she had been registered, or to perform any act which no person other than a registered person may perform.

(6) (a) If any registered person is declared mentally ill in terms of the Mental Health Act, 1973 (Act No. 18 of 1973), or if a curator is appointed by the High Court to conduct or manage the affairs of that person, the Registrar of the High Court must submit to the registrar, as soon as practicable, a copy of the order declaring that registered person a mentally ill person or appointing that curator, as the case may be.

(b) Upon receipt of the copy of the order referred to in paragraph (a), the registrar must remove the name of the person named in such order from the register concerned, and inform the Council in writing of such removal.

(c) Subsections (3) and (4) apply, with the necessary changes, to the removal of the name of a registered person from a register in terms of paragraph (b).

(7) (a) If the death of any registered person is reported to the Master of the High Court, the Master must submit to the registrar, as soon as practicable, a copy of the death certificate of such deceased registered person.

(b) Upon receipt of the copy of the death certificate referred to in paragraph (a), the registrar must remove the name of that deceased registered person from the register concerned, and inform the Council of such removal.

(8) Any person referred to in subsection (5) who fails to comply with or acts in contravention of paragraph (b) of that subsection is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Restoration of name to register

27. (1) Subject to subsection (2), a person whose name has been removed from a register in terms of section 26 may apply to the Council, in the form and manner determined by it, to have his or her name restored to such register.

(2) An application referred to in subsection (1) must be accompanied by -

(a) such documents and information as may be prescribed in respect of such application;

(b) such additional documents and information as the Council may require;

(c) if the name of a person were removed from the register in terms of section 26(1)(c), payment of the outstanding annual fees concerned;

(d) if the name of a person had been removed from the register in terms of section 26(1)(f), proof to the satisfaction of the Council that the applicant has complied with all the conditions or requirements as may be prescribed or as the Council may require in respect of such application, and that the applicant is a fit and proper person to be so restored to such register;

(e) if the name of a person were removed from the register in terms of section 26(6), written proof to the satisfaction of the Council of his or her sound mental health, or proof that the order of court placing him or her under curatorship has been set aside, as the case may be; and

(f) payment of the fees determined by the Council in respect of such application for restoration.

(3) In the case of the removal of a name from a register in terms of section 26(1)(a), (b), (c), (d), or (e), the registrar, acting for and on behalf of the Council -

(a) must restore to the register concerned the name of the applicant referred to in subsection (1), if the registrar is satisfied that that applicant has complied; or

(b) may refuse an application referred to in subsection (1), if the registrar is satisfied that the applicant has not complied,

with the applicable provisions of subsection (2).

(4) In the case of the removal of a name from a register in terms of subsections (1)(f) or (6)(b) of section 26, or if the registrar has any doubt relating to any application referred to in subsection (3), the registrar must refer the application for restoration concerned to the Council for consideration and a decision.

(5) The registrar must -

(a) inform in writing a person who has applied to the Council in terms of subsection (1) for the restoration of his or her name to a register, of any decision made in terms of subsection (3) or (4), as the case may be, and in the event of the registrar's or the Council's refusal to grant the application for restoration, the reasons for such refusal; and

(b) if the name of the person concerned has been restored to the register, issue to the applicant a certificate of restoration in such form as the Council may determine.

(6) The Council may determine, with the approval of the Minister and subject to section 28 -

(a) fees payable to the Council relating to the restoration of the name of a person to a register in terms of this section; and

(b) different restoration fees in terms of paragraph (a) in respect of the different reasons for the removal of a person's name from the register and in respect of the period of time for which such name was so removed.

(7) The Council -

(a) is not divested of any power, duty or function referred to in; and

(b) may amend or set aside any decision made by the registrar in the exercising of any power or the performance of any duty or function in terms of,

subsection (3).

Fees payable to Council and maintaining of registration by registered person

28. (1) The Council may determine, with the written approval of the Minister -

(a) application fees, registration fees, inspection fees, investigation fees and examination fees;

(b) any other fees in respect of any power exercised or duty or function performed by the Council;

(c) subject to subsection (4), the annual fees, or the portion thereof in respect of a part of a year, payable by -

(i) any registered person;

(ii) any private company registered in terms of section 35;

(iii) any close corporation registered in terms of section 36;

(iv) any pharmacy practice registered in terms of this Act,

to the Council in terms of this Act.

(2) The Council may amend or repeal from time to time, with the approval of the Minister, any of the fees determined in terms of subsection (1).

(3) A fee determined, or an amendment or repeal thereof, in terms of this section, must be made known by the president of the Council by notice in the *Gazette.*

(4) When the Council determines the annual fees payable to it by registered persons, the Council may determine different fees -

(a) in respect of different professions or different registration categories relating to a profession;

(b) in respect of the number of years which any registered person has been practising his or her profession; or

(c) based on such criteria as may be prescribed.

(5) If any person liable to pay any annual fees determined in terms of subsection (1)(c) fails or refuses to pay such fees before or on 31 March of the year in respect of which such fees are due and payable, the Council may recover such unpaid fees by means of proceedings in a competent court, whether or not that person's name has been removed from the register concerned.

(6) If any person whose name has been removed from a register applies for the restoration of his or her name to such register, the Council may not consider such application for restoration until such time as the applicant has paid in full all amounts due and payable by him or her to the Council in terms of this Act.

(7) The Council may in writing exempt any person in part or fully from paying any annual fees determined in terms of subsection (1)(c).

(8) When a registered person pays to the Council the annual fees determined in terms of subsection (1)(c) and payable to the Council by that registered person, the Council must issue a certificate in the name of that registered person as proof of the payment of such annual fees.

(9) A certificate issued in terms of subsection (8) -

(a) must be in such form as the Council may determine;

(b) must specify -

(i) the name of the Council;

(ii) the full names and surname of the registered person concerned;

(iii) particulars of the profession in respect of which the person concerned is registered;

(iv) the amount of the fees paid;

(v) the period of time in respect of which the annual payment was made and in respect of which such certificate will be valid;

(vi) such particulars as may be prescribed; and

(vii) such additional particulars as the Council may determine; and

(c) will serve as proof until the contrary is proven of the fact that the registered person named in such certificate has maintained his or her registration for the period of time specified in such certificate.

Register as proof

29. (1) A copy of any register of the Council, signed by the registrar, is proof until the contrary is proven in all legal proceedings of the facts recorded therein.

(2) The absence of the name of any person from a copy of a register referred to in subsection (1) is proof until the contrary is proven that the person concerned is not registered in terms of this Act.

(3) If the name of a person -

(a) does not appear in a copy of a register referred to in subsection (1), or has been added to such register after the date of such copy, a certified copy under the hand of the registrar of the entry of the name of that person in such register is proof until the contrary is proven that the person is registered in terms of this Act;

(b) has been removed from the register referred to in paragraph (a) and has not been restored thereto, a certificate under the hand of the registrar that the name of that person has been removed from such register is proof until the contrary is proven that the person is not registered in terms of this Act.

Certificate of status and extract from register

30. (1) A registered person may apply, in such form and manner as the Council may determine, to the registrar for the issue of a certificate of status in terms of subsection (2).

(2) Upon the payment of the fees determined by the Council in terms of section 28(1)(a) in respect of an application in terms of subsection (1), and upon the submission to the registrar of an affidavit by the registered person concerned that no criminal proceedings are pending against that registered person, the registrar must issue to that registered person a certificate of status containing particulars relating to -

(a) that person's status in respect of registration in terms of this Act;

(b) whether or not that registered person is disqualified in part or wholly from practising his or her profession in terms of this Act;

(c) whether or not any proceedings pertaining to unprofessional conduct are pending against that registered person at the time of the issuing the certificate of status;

(d) whether or not that registered person has been found guilty of any unprofessional conduct and, if so, the nature of the charge, the date of the finding and the penalties imposed;

(e) whether or not that registered person is an impaired person in terms of section 56; and

(f) if that registered person is an impaired person in terms of section 56, the date of the finding concerned made and the nature of the conditions of registration and practice which are applicable to that person at the time of the issuing of the certificate of status.

(3) A certificate of status referred to in subsection (2) -

(a) must be issued in such form and manner; and

(b) may be issued subject to such conditions,

as the Council may determine.

(4) The registrar must issue under his or her hand, upon the written application by any person and upon the payment of the applicable fees determined by the Council in terms of section 28(1)(a), to that person a certified extract from the register.

Registration of additional qualifications and specialities

31. (1) The Minister may prescribe, from time to time and on the recommendation of the Council, the qualifications that may be registered as -

(a) additional qualifications;

(b) specialities;

(c) professional categories or additional professional categories,

in terms of this section, including the curricula concerned, the period of time required for and the nature of the education, tuition and training concerned, the examinations to be passed, and the educational institutions where such education, tuition and training may be completed.

(2) Any registered person who, in addition to the qualification by virtue of which that person had been registered in the first instance, desires to -

(a) have an additional qualification registered; or

(b) be registered -

(i) as a specialist; or

(ii) in another professional category or in an additional professional category,

may apply to the Council, in the form and manner determined by it, to have such additional qualification, speciality, professional category or additional professional category, as the case may be, entered against his or her name in the register concerned.

(3) An application referred to in subsection (2) must be accompanied by -

(a) such documentary proof that the applicant holds the relevant qualification in respect of the application as the Council may require;

(b) such documents and information as may be prescribed in respect of such application;

(c) such additional documents or information as the registrar or Council may require; and

(d) payment of the fees determined by the Council in respect of such applications.

(4) If the Council is satisfied that the qualification relating to the application has been prescribed and that subsection (3) and any other prescribed requirement, if any, have been complied with, it must cause such additional qualification, speciality, professional category or additional professional category, as the case may be, to be entered into the register against the name of the applicant.

(5) The Council may enter into the register against the name of an applicant an additional qualification, speciality, professional category or additional professional category not prescribed in terms of this Act, if -

(a) the Council is satisfied that the qualification upon which the applicant relies for registration in terms of this section is of a standard of professional education not lower than the qualification prescribed in respect of such application; and

(b) the applicant passes to the satisfaction of the Council, whether in or outside Namibia, an examination prescribed by the Minister on the recommendation of the Council, or if no such examination has been prescribed, such examination as the Council may specify, in order to determine whether or not the applicant -

(i) possesses a standard of professional knowledge, skill and competence relating to the additional qualification, speciality or professional category for which registration has been applied and that would enable him or her to practise the profession in respect of the additional qualification, speciality or professional category concerned; and

(ii) is proficient in the official language of Namibia.

(6) The Council may identify, for the purposes of subsection (5) and from time to time, the person or persons who have to conduct the examination referred to in that subsection.

(7) An applicant referred to in subsection (2) must pay the fees determined by the Council in terms of section 28 in respect of an examination conducted in terms of this section before sitting for any such examination.

(8) The registrar must -

(a) inform an applicant in writing of any decision made in terms of this section;

(b) if the application had been granted in terms of subsection (4) or (5), issue to the applicant a certificate relating to the registration concerned and enter his or her name into the relevant register; and

(c) if the application had been refused, inform the applicant of the reasons for such refusal.

(9) Any person who assumes, uses or publishes in any way whatsoever any name, title, description or symbol indicating, or calculated to lead any person to infer, that he or she holds any qualification, speciality, professional category or additional professional category registered in terms of this section, and if such qualification, speciality, professional category or additional professional category is not so registered, is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Continuing professional development

32. (1) The Council may determine from time to time -

(a) the continuing professional development that will apply to registered persons or to a class of registered persons so determined;

(b) the nature, extent and duration of the professional development determined in terms of paragraph (a); and

(c) the conditions pertaining to the continuing professional development by registered persons determined in terms of paragraph (a), including, but not limited to, the attending or completion or presenting of study courses or refresher courses, or the passing of examinations relating to such professional development.

(2) Notwithstanding subsection (1), and in addition thereto, the Minister may prescribe -

(a) the continuing professional development that will apply to a registered person or to a class of registered persons so prescribed for the purposes of paragraph (b);

(b) that the registration of a registered person may not be maintained in terms of section 28 unless that registered person has attended or completed, or has otherwise complied with, during the period of time so prescribed and to the satisfaction of the Council, the continuing professional development prescribed in terms of paragraph (a) and applicable to that registered person; and

(c) the procedures to be followed by the Council in the event of a registered person failing to comply with any determination made by the Council in terms of subsection (1) or any regulation made in terms of this subsection, and the powers of the Council relating to such procedures.

Temporary registration for purposes of educational demonstrations or training

33. (1) Notwithstanding the provisions of this Act, the Council may register, for the purpose of promoting education, tuition or training in respect of, or relating to, any profession to which this Act applies, any person not permanently resident in Namibia to teach or train or give educational demonstrations relating to any such profession for such period of time and subject to such conditions as the Council may determine.

(2) The Council may determine the form of and the procedures relating to an application to the Council for temporary registration in terms of this section, including the form of the certificate of temporary registration to be issued by the Council and the application fees payable, if any.

(3) No person may be registered in terms of subsection (1) unless that person, in terms of the laws of the country in which he or she -

(a) is resident; or

(b) obtained the educational qualification which entitles him or her to be registered to practise his or her profession,

is registered to practise his or her profession in such country.

(4) Any person who teaches or trains or provides educational demonstrations referred to in subsection (1), without being registered in terms of that subsection, is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(5) This section does not apply to registered persons or to persons employed by educational institutions.

Educational institutions to furnish particulars

34. (1) Every educational institution in Namibia at which a qualification can be obtained, and which qualification will entitle the holder thereof to registration in terms of this Act, must furnish the Council in writing, at the Council's written request and within a period of 30 days after the receipt of such request, with full particulars in respect of -

(a) the standard of general education and training required of students for admission to the relevant course or field of study;

(b) the courses of study, training and examinations required of a student before such qualification may be granted;

(c) the particulars of examinations conducted and the results thereof in respect of a specific student or of a specific category of students; and

(d) such other particulars relating to the education and training offered by such educational institution as the Council may from time to time require.

(2) If -

(a) any educational institution referred to in subsection (1) fails or refuses to furnish the particulars requested by the Council in terms of that subsection; or

(b) it appears to the Council that any provision of this Act or any condition prescribed or determined by or in terms of this Act pertaining to the educational institution referred to in subsection (1) is not properly being

complied with, and that such improper compliance may adversely affect the standard of the education, tuition and training in respect of the professional training concerned to be maintained at such educational institution,

the Minister may determine, on the recommendation of the Council and by notice in the *Gazette*, that any qualification granted by the educational institution after the date specified in such notice does not entitle any holder thereof to registration in terms of this Act.

(3) The Minister may determine, on the recommendation of the Council and by notice in the *Gazette,* whether or not any qualification other than a qualification referred to in subsection (2), and granted subsequent to the date specified in such notice by the educational institution referred to in that subsection, entitles the holder thereof to registration in terms of this Act.

(4) The Minister may repeal or amend, on the recommendation of the Council, any notice published in terms of subsection (2) or (3), if it appears to the Minister that the educational institution in respect of which such notice was published has made satisfactory provision to comply with the requirements of this Act or with the prescribed or other conditions referred to in subsection (2)(b).

(5) A qualification specified in a notice issued in terms of subsection (2) which had been granted by an educational institution to which the notice relates between the date specified in such notice and the date of the repeal of such notice, does not entitle the holder thereof to registration in terms of this Act.

(6) The Council may appoint in writing, for the purposes of subsection (2)(b), a person to investigate, subject to section 61, whether the prescribed conditions, and the conditions and requirements determined by the Council, in respect of an educational institution referred to in that subsection are being complied with by such educational institution, and to report to the Council on such investigation within such period of time and in such manner as the Council may determine and specify in such written appointment.

Private company conducting business as pharmacist

35. (1) Notwithstanding anything in this Act, but subject to the other provisions of this section, no company may conduct business as a pharmacist, unless -

(a) such company is a private company having share capital and is registered and incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973);

(b) such company has been registered by the Council in terms of this Act to conduct such business;

(c) the managing director of such company complies with subsection (9); and

(d) the managing director referred to in paragraph (c) continuously manages and controls the business as a pharmacist conducted by such company subject to the terms and conditions imposed by the Council when registering such company in terms of paragraph (b).

(2) If the managing director of a company referred to in subsection (1)(c) for any reason ceases to be such managing director, or ceases to manage and control the business as a pharmacist concerned, such company may conduct, notwithstanding subsection (1) but subject to subsection (3), such business as a pharmacist for a period of time not exceeding 30 days from the date upon which such person ceases to be such managing director, or to act as such, or ceases to manage and control such business.

(3) A business as a pharmacist may be conducted in terms of subsection (2) -

(a) only if such business as a pharmacist is so conducted under the continuous management, supervision and control of a pharmacist; and

(b) subject to such other conditions as may be prescribed.

(4) Subject to the other provisions of this section, a company desiring to conduct business as a pharmacist must apply to the Council, in the form and manner determined by the Council, for registration to conduct such business.

(5) An application referred to in subsection (4) must be submitted to the registrar, and be accompanied by -

(a) such documents and information as may be prescribed in respect of such application;

(b) such additional documents or information as the registrar or the Council may require; and

(c) payment of the fees determined by the Council in respect of such applications, or proof of the payment thereof to the Council.

(6) The registrar must submit an application made in terms of subsection (4), together with the documents and information referred to in subsection (5), and any report or recommendation he or she may wish to make in respect of such application, to the Council for its consideration and decision.

(7) The Council, after having considered the application for registration, and the documents and other information, referred to in subsection (5), may -

(a) grant the application for registration, if it is satisfied that the applicant -

(i) meets the requirements relating to registration in terms of this section; and

(ii) has paid to the Council the fees determined in respect of such application; or

(b) refuse the application, if the Council is satisfied that the applicant -

(i) does not meet the requirements relating to registration in terms of this section; or

(ii) has not paid to the Council the fees determined in respect of such application.

(8) The registrar must -

(a) inform the applicant concerned in writing of any decision of the Council in terms of subsection (7);

(b) issue, if the registration had been granted, in the name of the company concerned a certificate, in such form as the Council may determine, relating to the registration concerned and enter the name of the company and the prescribed particulars into the relevant register;

(c) inform the applicant concerned in writing, if the registration had been refused, as soon as practicable of the reasons for such refusal.

(9) Notwithstanding anything in this Act, the managing director referred to in subsection (1)(c) -

(a) must be a pharmacist;

(b) must be -

(i) a Namibian citizen and be ordinarily resident in Namibia; or

(ii) lawfully admitted to Namibia for permanent residence therein and be ordinarily resident in Namibia; and

(c) may not be engaged, subject to subsection (10), in any business as a pharmacist which does not belong to the company concerned, either as sole owner or in partnership with any other person, unless with the prior written approval of the Council.

(10) The managing director referred to in subsection (9) may -

(a) be a director (other than the managing director) of any company (other than the company of which he or she is the managing director) and which in terms of this section is entitled to conduct business as a pharmacist;

(b) be a member (other than the manager) of a close corporation (other than the close corporation of which he or she is the manager) and which in terms of section 36 is entitled to conduct business as a pharmacist;

(c) not in respect of

(i) the company referred to in paragraph (a) and of which he or she is not the managing director; or

(ii) the close corporation referred to in paragraph (b) and of which he or she is not the manager,

perform any act referred to in section 43(1)(b)(i) or (ii), or any other act of a similar nature, specially pertaining to the profession of a pharmacist.

(11) The managing director referred to in subsection (10) is responsible to the Council in respect of any act done by or on behalf of the company concerned and which may result in disciplinary action by the Council in terms of PART VI, unless that managing director satisfies the Council that the responsibility for such act does not rest upon himself or herself, but upon any other pharmacist employed by the company.

(12) If the company referred to in subsection (1) conducts, or desires to conduct, business as a community pharmacist, then notwithstanding anything in the Companies Act, 1973 -

(a) only natural persons who are pharmacists, may hold shares in, or have any interest in the shares of, such company;

(b) no voting rights, except in respect of a resolution enabling such company to -

(i) comply with this section; or

(ii) to dispose of its undertaking or assets or any part thereof,

attach to any share referred to in subsection (14);

(c) no person other than a shareholder in such company may be a director of such company;

(d) the name of such company, if such name consists of the name or names of natural persons, must consist of the name or names of any of the directors or former directors of such company or of persons who conducted, either for their own account or in partnership, any business as a pharmacist which may reasonably be regarded as a predecessor of the business as a pharmacist conducted by such company.

(13) The words "and associates" or "company" may be included in the name of a company referred to in subsection (12).

(14) In the event of any person referred to in subsection (12)(a) dying or ceasing to qualify to hold shares in the company concerned, that person or his or her estate, as the case may be, may hold or continue to hold, as the case may be, his or her shares in such company for a period of 12 months or for such longer period of time as the Council may determine.

(15) The holder of any shares referred to in subsection (14) is not entitled to receive any director's fee or remuneration in respect of or deriving from such shares.

(16) No company, other than a company which complies with this section, may open, purchase, or otherwise acquire, a pharmacy in which the business of a community pharmacy is conducted.

(17) The Council may cancel the registration of a company granted in terms of this section and any certificate issued in respect of such registration, if -

(a) the managing director of such company ceases to comply with the requirements specified in subsection (9), or ceases to be the manager of the business as a pharmacist of such company or to act as such;

(b) after a professional conduct inquiry conducted in terms of PART VI, the Council finds that any director of such company has contravened a provision this Act;

(c) such company no longer complies with this section;

(d) such company has failed to notify the registrar in terms of subsection (20) of any change of its address, or has failed to notify the registrar of its present address within a period of three months from the date of a written request by the registrar by registered letter addressed to such company at the address appearing in the register in respect of such company;

(e) such company has requested in writing that its name be removed from the register;

(f) such company has failed to pay to the Council before or on 31 March of the year concerned the annual fee determined by the Council in respect of such registration;

(g) such company had been registered in error or in fraud to conduct such business as a pharmacist, or in circumstances not authorised by this Act.

(18) The reasons for a cancellation of a registration in terms of subsection (17) must be entered into the register as part of such cancellation.

(19) The registrar may in respect of a written request by a company in terms of subsection (17)(e) require the director of such company to lodge with the registrar an affidavit to the effect that no proceedings relating to any unprofessional conduct or to any criminal act has been instituted, or is likely to be instituted, against any director or any employee of such company.

(20) If a director ceases to hold office, or a new director is appointed, the company must within a period of 30 days from the date of such cessation or appointment notify the registrar of the name of the director who has ceased to hold office and of the name and address of the new director appointed to such company.

(21) Every company registered in terms of this section which changes its address must in writing and within a period of 30 days after such change notify the registrar of its new address.

(22) If the registration of a company is cancelled in terms of subsection (17), the registrar, or a person designated by the registrar for such purpose, must by notice in writing inform such company of, and the reasons for, such cancellation.

(23) A notice referred to in subsection (22) must be served either by prepaid registered letter addressed to the person referred to in that subsection at his or her postal address as it appears in the register concerned, or in the prescribed manner.

(24) From the date of service of a notice in terms of subsection (22), until such time as the name of the company concerned is restored to the register concerned -

(a) the registration certificate relating to such company is regarded to be withdrawn; and

(b) such company must cease to conduct business as a pharmacist, or to perform any act relating to such business.

(25) Any person who -

(a) contravenes or fails to comply with any provision of subsection (1), (12), (16) or (24)(b) is guilty of an offence and on conviction liable to the penalties specified in section 68(b);

(b) contravenes or fails to comply with any provision of subsection (19) or (20), or who refuses or fails to answer any written enquiry made by or on behalf of the Council as to the name of the managing director or any other director of, or any other person employed by, a company referred to in this section, is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(26) The Minister may prescribe, on the recommendation of the Council -

(a) additional requirements relating to the conducting of business as a community pharmacist by a private company;

(b) the requirements for the conducting of business as a wholesale pharmacist by a public company or by a private company registered and incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973), including -

(i) a definition of "business as a wholesale pharmacist";

(ii) the procedures relating to the registration of such a company for the purpose of conducting such a business;

(iii) the conditions subject whereto such a business may be conducted; and

(iv) any exemptions from such registration.

Close corporation conducting business as pharmacist

36. (1) Notwithstanding anything in this Act but subject to this section, no close corporation may conduct business as a community pharmacist, unless -

(a) such close corporation has been registered by the Council in terms of this Act to conduct such business;

(b) the manager of such close corporation complies with subsection (9); and

(c) the manager referred to in paragraph (b) continuously manages and controls the pharmacy business conducted by such close corporation, subject to the terms and conditions imposed by the Council when registering such close corporation in terms of paragraph (a).

(2) If the manager of a close corporation referred to in subsection (1)(c) for any reason ceases to be such manager, or ceases to manage and control the pharmacy business concerned, such close corporation may conduct, notwithstanding subsection (1), the business as a pharmacist for a period of time not exceeding 30 days from the date upon which such person ceases to be the manager of such close corporation, or to act as such, or ceases to manage and control such pharmacy business.

(3) A business as a pharmacist may be conducted in terms of subsection (2) -

(a) only if such business as a pharmacist is so conducted under the continuous management, supervision and control of a pharmacist; and

(b) subject to such other conditions as may be prescribed.

(4) Subject to the other provisions of this section, a close corporation desiring to conduct business as a pharmacist must apply to the Council, in the form and manner determined by the Council, for registration to conduct such business.

(5) An application referred to in subsection (4) must be submitted to the registrar, and be accompanied by -

(a) such documents and information as may be prescribed in respect of such application;

(b) such additional documents or information as the registrar or the Council may require; and

(c) payment of the fees determined by the Council in respect of such applications, or proof of the payment thereof to the Council.

(6) The registrar must submit an application made in terms of subsection (4), together with the documents and information referred to in subsection (5), and any report or recommendation he or she may wish to make in respect of such application, to the Council for its consideration and decision.

(7) The Council, after having considered the application for registration, and the documents and other information, referred to in subsection (5), may -

(a) grant the application for registration, if it is satisfied that the applicant -

(i) meets the requirements relating to registration in terms of this section; and

(ii) has paid to the Council the fees determined in respect of such application; or

(b) refuse the application, if the Council is satisfied that the applicant -

(i) does not meet the requirements relating to registration in terms of this section; or

(ii) has not paid to the Council the fees determined in respect of such application.

(8) The registrar must -

(a) inform the applicant concerned in writing of any decision of the Council in terms of subsection (7);

(b) issue, if the registration had been granted, in the name of the close corporation concerned a certificate, in such form as the Council may determine, relating to the registration concerned and enter the name of the close corporation and the prescribed particulars into the relevant register;

(c) inform the applicant concerned in writing, if the registration had been refused, as soon as practicable of the reasons for such refusal.

(9) Notwithstanding anything in this Act, the manager referred to in subsection (1)(c) -

(a) must be a pharmacist; and

(b) must be -

(i) a Namibian citizen and be ordinarily resident in Namibia; or

(ii) lawfully admitted to Namibia for permanent residence therein and be ordinarily resident in Namibia; and

(e) may not be engaged, subject to subsection (10), in any business as a pharmacist which does not belong to the close corporation concerned, either as sole owner or in partnership with any other person.

(10) The manager referred to in subsection (1)(c) may -

(a) be a director (other than the managing director) of any company which in terms of section 35 is entitled to conduct business as a pharmacist;

(b) be a member (other than the manager) of a close corporation (other than the close corporation of which he or she is the manager) and which in terms of this section is entitled to conduct business as a pharmacist;

(c) not in respect of -

(i) the company referred to in paragraph (a), and of which he or she is not the managing director;

(ii) the close corporation referred to in paragraph (b), and of which he or she is not the manager,

perform any act referred to in section 43(1)(b)(i) or (ii), or any other act of a similar nature, specially pertaining to the profession of a pharmacist.

(11) The manager referred to in subsection (1)(c) is responsible to the Council in respect of any act done by or on behalf of the close corporation concerned and which may result in disciplinary action by the Council in terms of PART VI, unless that manager satisfies the Council that the responsibility for such act does not rest upon himself or herself, but upon any other pharmacist employed by such close corporation.

(12) If the close corporation referred to in subsection (1) conducts, or desires to conduct, business as a pharmacist, then notwithstanding anything in the Close Corporations Act, 1988 -

(a) only natural persons who are pharmacists may be members of such close corporation;

(b) no voting rights, except in respect of a resolution enabling such close corporation to -

(i) comply with this section; or

(ii) to dispose of its undertaking or assets or any part thereof, attach to any interest in any membership referred to in subsection (13);

(c) no person other than a member of such close corporation may be the manager of such close corporation;

(d) the name of such close corporation, if such name consists of the names of natural persons, must consist of the name or names of any of the members or former members of such close corporation, or the names or names of the directors or former directors of a private company converted into a close corporation in terms of section 27 of the Close Corporations Act, 1988 (Act No. 26 of 1988), or of persons who conducted, either for their own account or in partnership, any business as a pharmacist which may reasonably be regarded as a predecessor of the business as a pharmacist conducted by such close corporation.

(13) In the event of any person referred to in subsection (12)(a) ceasing to qualify to be a member of the close corporation concerned or dying, that person or his or her estate, as the case may be, may hold or continue to hold, as the case may be, notwithstanding section 29 of the Close Corporations Act, 1988, his or her member's interest in such close corporation for a period not exceeding 12 months, or for such longer period of time as the Council may determine.

(14) The member concerned or the holder of any member's interest referred to in subsection (13) is not entitled to receive any remuneration or other financial reward in respect of or deriving from such member's interest in the close corporation.

(15) (a) A private company which is registered in terms of section 35 or a body corporate which is registered in terms of a law repealed by section 71, as the case may be, to conduct business as a pharmacist, and which while so conducting such business is converted into a close corporation in terms of section 27 of the Close Corporations Act, 1988, may continue to so conduct such business as a pharmacist, if such close corporation complies with the conditions pertaining to close corporations as set out in this section.

(b) Notwithstanding paragraph (a), the manager of a close corporation referred to in that paragraph must submit to the registrar, within a period of 30 days after the conversion referred to in that paragraph -

(i) a copy of the founding statement of such close corporation;

(ii) a list of the names and addresses of the members of such close corporation;

(iii) the name and address of the manager of such close corporation;

(iv) the original registration certificate issued to the private company or body corporate, as the case may be, referred to in paragraph (a) to conduct business as a pharmacist; and

(v) proof to the satisfaction of the registrar that the person or persons holding an interest in the close corporation is or are the same person or persons who was or were shareholders of the private company or body corporate, as the case may be, so converted and the percentage interest in the close corporation of each such person is the same as his or her or their shareholding in the body corporate so converted.

(c) The registrar must -

(i) register the close corporation as a close corporation that may conduct business as a pharmacist in Namibia, if such close corporation complies with the provisions of this section; and

(ii) issue to such close corporation a registration certificate; or

(iii) inform the close corporation in writing, if such registration has been refused, of the reasons for such refusal.

(16) No close corporation, other than a close corporation which complies with this section, may open, purchase, or otherwise acquire, a pharmacy in which the business of a community pharmacy is conducted.

(17) The Council may cancel the registration of a close corporation granted in terms of this section and any certificate issued in respect of such registration, if -

(a) the manager of such close corporation ceases to comply with the requirements specified in subsection (9), or ceases to be the manager of the business as a pharmacist of such close corporation or to act as such;

(b) after a professional conduct inquiry conducted in terms of PART VI, the Council finds that any member of such close corporation has contravened any provision this Act;

(c) such close corporation no longer complies with this section;

(d) such close corporation has failed to notify the registrar in terms of subsection (21) of any change of its address, or has failed to notify the registrar of its present address within a period of three months from the date of a written request by the registrar by registered letter addressed to such close corporation at the address appearing in the register in respect of such close corporation;

(e) such close corporation has requested in writing that its name be removed from the register;

(f) such close corporation has failed to pay to the Council before or on 31 March of the year concerned the annual fee determined by the Council in respect of such registration;

(g) such close corporation had been registered in error or in fraud to conduct such business as a pharmacist, or in circumstances not authorised by this Act.

(18) The reasons for a cancellation of a registration in terms of subsection (17) must be entered into the register as part of such cancellation.

(19) The registrar may in respect of a written request by a close corporation in terms of subsection (17)(e) require the director of such close corporation to lodge with the registrar an affidavit to the effect that no proceedings relating to any unprofessional conduct any or to any criminal act has been instituted, or is likely to be instituted, against any member or any employee of such close corporation.

(20) If a member of a close corporation ceases to hold office, or if a new member is appointed, the close corporation concerned must within a period of 30 days from the date of such cessation or appointment notify the registrar of the name of the member who has ceased to hold office and of the name and address of the new member appointed to such close corporation.

(21) Every close corporation registered in terms of this section which changes its address must in writing and within a period of 30 days after such change notify the registrar of its new address.

(22) If the registration of a close corporation is cancelled in terms of subsection (17), the registrar, or a person designated by the registrar for such purpose, must by notice in writing inform such close corporation of, and the reasons for, such cancellation.

(23) A notice referred to in subsection (22) must be served either by prepaid registered letter addressed to the person referred to in that subsection at his or her postal address as it appears in the register concerned, or in the prescribed manner.

(24) From the date of service of a notice in terms of subsection (22), until such time as the name of the company concerned (1) is restored to the register concerned -

(a) the registration certificate relating to such close corporation is regarded to be withdrawn; and

(b) such close corporation must cease to conduct business as a pharmacist, or to perform any act relating to such business.

(25) Any person who -

(a) contravenes or fails to comply with any provision of subsection (1), (12), (16) or (24)(b) is guilty of an offence and on conviction liable to the penalties specified in section 68(b);

(b) contravenes or fails to comply with any provision of subsection (19), (20) or (21), or who refuses or fails to answer any inquiry made by or on behalf of the Council as to the name of the manager or of any other member of, or any other person employed by, a close corporation referred to in this section, is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(26) The Minister may prescribe, on the recommendation of the Council additional requirements relating to the conducting of business as a community pharmacist by a close corporation.

Ownership of pharmacy by person other than pharmacist, private company or close corporation

37. The Minister may prescribe, on the recommendation of the Council -

(a) who, other than a pharmacist or a private company referred to in section 35, or a close corporation referred to in section 36, may own a pharmacy subject to the provisions of this Act;

(b) the conditions subject whereto such person may own a pharmacy;

(c) the conditions subject whereto such person may conduct the business as a pharmacist pertaining to such pharmacy; and

(d) in addition to section 38, the conditions or circumstances on which such a person do not qualify to own, or further own, a pharmacy.

Further conditions pertaining to pharmacy owned by person other than pharmacist

38. (1) A pharmacy referred to in section 35, 36 and 37 must -

(a) be licensed in terms of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994);

(b) be conducted under the continuous personal supervision and control of a pharmacist;

(c) be conducted in accordance with good pharmacy practice as determined by the Council in terms of section 67; and

(d) comply with all laws applicable to pharmacies and the rules and regulations made in terms of this Act.

(2) The pharmacist referred to in subsection (1)(b) is responsible to the Council for any act performed by or on behalf of the person who owns the pharmacy concerned and which may result in disciplinary action by the Council, unless he or she satisfies the Council that the responsibility for such act rests upon a pharmacist other than himself or herself.

(3) The Minister, after giving 30 days notice in writing to the owner of a pharmacy referred to in section 37 or to the pharmacist under whose personal supervision and control the business as a pharmacist is being conducted, and after having afforded that owner or pharmacist an opportunity to be heard, may in writing inform that owner that he or she no longer qualifies to own the pharmacy concerned or any other pharmacy, if -

(a) that owner or that pharmacist, as the case may be, has failed to comply with -

(i) any requirement prescribed in terms of section 37; or

(ii) any requirement prescribed by regulation; or

(iii) subsection (1) of this section;

(b) that owner does not qualify, or further qualify, to own a pharmacy in terms of a regulation made in terms of section 37; or

(c) the business as a pharmacist concerned has been or is being conducted in contravention of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003); or

(d) the pharmacy concerned does not comply with the Hospital and Health Facilities Act, 1994.

(4) Any person who continues to conduct a pharmacy in contravention of a notice issued in terms of subsection (3) is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

PART IV
CONDUCT OF PHARMACEUTICAL PRACTICE

Pharmacy to be conducted under continuous supervision of pharmacist

39. (1) Every pharmacy**,** including a pharmacy conducted by a company as contemplated in section 35 or a close corporation as contemplated in section 36, or a pharmacy referred to in section 37, must be conducted under the continuous personal supervision and control of a pharmacist.

(2) The name of the pharmacist referred to in subsection (1) must be displayed conspicuously over the main entrance of that pharmacy.

(3) Any member of a partnership, society or other association of persons who uses any name, title, description, symbol or descriptive term indicating or calculated to lead any person to infer that such person possesses a pharmaceutical qualification or that he or she is registered as a pharmacist, or uses, whether directly or indirectly, the expression or term "pharmacist", or "chemist", or any other expression or term with a similar or related meaning while such person does not posses such qualification or is not so registered, is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Restriction in respect of business names

40. (1) Subject to subsections (2) and (3), no person may conduct a business as a pharmacist, either alone or in partnership with another person, under any name, title or description which is, or includes in any form, the surname of a natural person, living or dead, if the use of that name, title or description is calculated or likely to lead persons to infer that a person of that surname is or has been associated with such pharmacy business.

(2) Subsection (1) does not prohibit -

(a) the inclusion in the name, title, or description of any pharmacy business of the surname of an owner thereof or -

(i) in the case of such a business wholly owned by a company referred to in section 35, of the surname of any director thereof who is a pharmacist;

(ii) in the case of such a business wholly owned by a close corporation referred to in section 36, of the surname of any member thereof who is a pharmacist;

(b) the use in respect of any pharmacy business of any name, title or description under which such business has been lawfully conducted immediately prior to the commencement of this Act.

(3) Subsection (1) does not apply in respect of any pharmacist whose business activities consist of the manufacture of medicines and the sale thereof to pharmacists or dealers, and who does not conduct business as a community pharmacist.

(4) Any person who contravenes or fails to comply with subsection (1) is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

Continuation of business of pharmacist by executor, trustee, liquidator or curator

41. Notwithstanding anything in this Act -

(a) the executor of the deceased estate of a pharmacist may continue, subject to the laws relating to the administration of estates, for a period not exceeding three years after the date of the death of that pharmacist and for such additional period as the Council, at its discretion, may allow, the pharmacy business of the deceased, provided that such business is conducted under the continuous personal supervision and control of a pharmacist;

(b) the trustee in the insolvent estate of a pharmacist or the liquidator of a company or a close corporation conducting the business as a pharmacist may continue, subject to the laws relating to insolvency, companies or close corporations, as the case may be, for a period not exceeding one year after the date of the final sequestration order in respect of such insolvent estate or of the final winding-up order in respect of such company or close corporation, as the case may be, the business as a pharmacist of that pharmacist, body corporate or close corporation, provided such business is conducted under the continuous personal supervision and control of a pharmacist;

(c) the curator of the estate of a pharmacist who has been declared by an order of a competent court to be incapable of managing his or her own affairs may continue, subject to the laws relating to mental health, for a period not exceeding one year after the date of such order and for such additional period of time as the Council, at its discretion, may allow, the pharmacy business of that pharmacist, provided it is conducted under the continuous personal supervision and control of a pharmacist.

Inspection of pharmacy practices

42. (1) Notwithstanding anything in this Act or in any other law, the Council may authorise in writing any person -

(a) to investigate or inspect any matter relating to the education, tuition or training of any person receiving such education, tuition or training for the purpose of qualifying himself or herself to practise a profession to which this Act applies;

(b) to inspect the professional practice of any registered person, including the premises where such practice is being conducted.

(2) A person authorised in writing in terms of subsection (1) to conduct an investigation or inspection in terms of that subsection may enter, for the purposes of such investigation or inspection and upon producing such written authorisation, any premises, place, establishment or institution utilised in the teaching, tuition or training referred to in paragraph (a), or the conducting of the professional practice referred to in paragraph (b), of that subsection.

(3) Any person who prevents a person authorised in terms of subsection (1) from entering any premises, place, establishment or institution referred to in subsection (2), or who hinders the person so authorised in conducting therein or thereon an investigation or inspection in accordance with subsection (1), is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(4) A person authorised by the Council in terms of subsection (1) to conduct an investigation or inspection in terms of this section must report to the Council relating to such investigation or inspection in the form and manner determined by the Council and specified in the written authorisation issued in terms of that subsection.

(5) In so far as this section provides for a limitation on the fundamental rights contemplated in Article 13 of the Namibian Constitution, in that it authorises interference with the privacy of a person's home, correspondence or communication, that limitation is enacted upon the authority of that Article.

PART V
OFFENCES BY UNREGISTERED PERSONS

Penalties for practising as pharmacist or pharmacist intern, or for performing certain acts, while unregistered

43. (1) Subject to the subsection (2), any person not registered as a pharmacist or pharmacist intern who -

(a) practices as a pharmacist or pharmacist intern, whether or not purporting to be registered as such;

(b) for gain -

(i) prepares or compounds any medicine or medicinal or chemical substance for supply as a medicine;

(ii) compounds or supplies any medicine on the prescription of a medical practitioner, dentist or veterinarian;

(iii) manufactures medicine or supervises the manufacture thereof;

(iv) furnishes advice to any person with regard to any medicine;

(v) provides storage and distribution of pharmaceuticals and medicines;

(vi) conducts research and development in pharmaceutical sciences and clinical pharmacology;

(vii) performs any act prescribed by or in terms of this Act or any other law as an act that may be performed only by a pharmacist, pharmacist intern, pharmacist assistant or pharmaceutical technician;

(viii) performs any other act, whether or not defined in this Act, specially pertaining to the profession of pharmacist, pharmacist intern, pharmacist assistant or pharmaceutical technician;

(ix) renders pharmaceutical services or care;

(c) pretends, or by any means whatsoever holds himself or herself out to be a pharmacist or pharmacist intern, or to be entitled to practise any such profession, whether or not purporting to be registered;

(d) uses a name, title, description or symbol indicating or calculated to lead a person to infer that such a person is the holder, or is entitled to be the holder, of any qualification entitling such person to practise as a pharmacist or pharmacist intern, or that such person is registered as such, or is entitled to practise such profession, in terms of this Act;

(e) in describing his or her business activities or premises, whether directly or indirectly, uses the expression or term "pharmacist", "chemist", "chemist's shop", "pharmacy" or "drug store", or any other expression or term with a similar or related meaning,

is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

(2) Subsection (1) does not prohibit -

(a) any medical practitioner, dentist, veterinarian, or a person to whom a license for dispensing has been issued in accordance with the provisions of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003), to keep or to supply medicines to his or her own patients;

(b) the employment, under the supervision of a pharmacist -

(i) of a pharmacist intern in the pharmacy in which he or she is completing his or her practical training;

(ii) of a pharmacist's assistant or pharmaceutical technician;

(c) members of the medical services of the armed forces to handle or administer medicines, under the supervision of a medical practitioner or a pharmacist, to members of the armed forces, provided that any member so handling or administering medicines must have completed training in such handling or administering of medicines;

(d) any person registered in terms of the laws regulating to the nursing profession in Namibia to keep and administer medicines in accordance with the provisions of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003);

(e) a person or organisation performing a health service, and authorised in writing thereto by the Minister on the recommendation of the Council, to acquire medicines for the performance of that service;

(f) a staff member in the employ of the Ministry who is authorised thereto by the Permanent Secretary in writing, from keeping medicines for the prevention of any contagious or communicable diseases as determined by the Minister in writing; or

(g) the supply of medicine under the supervision or a medical practitioner, a dentist, a pharmacist or a nurse registered in terms of any law governing the registration of persons in such professions in Namibia.

Penalties for practising as a pharmacist's assistant or pharmaceutical technician, or for performing certain acts, while unregistered

44. (1) Any person not registered as a pharmacist's assistant or pharmaceutical technician, who -

(a) practises as such, whether or not purporting to be registered; or

(b) performs for gain any act -

(i) which has been prescribed by or in terms of this Act or any other law as an act which may only be performed by a person registered as such in terms of this Act;

(ii) specially pertaining to the practice of any such profession;

(c) pretends or by any means whatsoever holds himself or herself out to be so registered, or to be entitled to practise any such profession; or

(d) uses the name of pharmacist's assistant or pharmaceutical technician, as the case may be, or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he or she is the holder, or is entitled to be the holder, of any qualifications entitling him or her to practise any such profession, or that he or she is registered or entitled to practise any such profession in terms of this Act,

is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

(2) Any person who, knowing that another person is not registered in terms of this Act -

(a) describes such person as the holder of a title which only a person registered in terms of this Act may use, whether he or she describes that other person by making use of such title alone or in combination with any word or letter; or

(b) holds that other person out, directly or indirectly, as being so registered,

is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

PART VI
DISCIPLINARY POWERS OF COUNCIL

Professional conduct rules by Council

45. (1) The Council may from time to time issue rules specifying the acts or omissions by registered persons which constitute unprofessional conduct and in respect of which the Council may conduct inquiries and disciplinary proceedings in terms of the provisions of this PART.

(2) The powers of the Council to inquire into and deal with any complaint, charge or allegation relating to a registered person are not limited to the acts or omissions specified in terms of subsection (1).

(3) No rules issued in terms of subsection (1) or any amendment thereto or withdrawal thereof is of force and effect until approved by the Minister in writing and published by the Council in the *Gazette.*

(4) Any registered person who -

(a) refuses to comply, or who complies insufficiently, with a lawful instruction of the Council is guilty of unprofessional conduct, and on being found so guilty in a professional conduct inquiry is liable to the penalties referred to in section 50(1)(d); or

(b) is found guilty of an offence under the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994) is guilty of unprofessional conduct, and on proof

of such conviction in a professional conduct inquiry liable to any one or more of the penalties referred to in section 50.

Inquiry by Council into complaint, charge or allegation of unprofessional conduct

46. (1) The Council may conduct an inquiry -

(a) into any complaint or charge lodged with the Council; or

(b) whether or not a complaint or charge has been lodged with the Council, into any allegation,

of unprofessional conduct against any person registered with the Council.

(2) Upon finding the registered person guilty of unprofessional conduct at an inquiry referred to in subsection (1), the Council may impose any of the penalties referred to in section 50(1) against that person.

(3) If a complaint, charge or allegation referred to in subsection (1) forms, or is likely to form, the subject of criminal proceedings in a court of law, the Council may postpone the conducting of an inquiry referred to in that subsection until such time as the criminal proceedings concerned has been finalised in such court.

(4) The Council may -

(a) when it is in doubt as to whether or not an inquiry should be conducted in connection with a complaint, charge or allegation, consult with or seek information from any person, including the person against whom the complaint or the charge has been lodged or the allegation has been made;

(b) for the purpose of an inquiry in terms of subsection (1), permit or request any person to give evidence at such inquiry or to advise the Council on any matter in respect thereof;

(c) delegate any of its powers in terms of this subsection to the preliminary investigation committee.

(5) If a person whose name has been removed from the register concerned in terms of section 26 is alleged to have committed unprofessional conduct before such removal, the Council may institute an inquiry in terms of this PART in respect of such allegation.

(6) A person referred to in subsection (5) will be regarded, for the purposes of an inquiry in terms of this PART, to be a registered person.

Procedures relating to professional conduct inquiry

47. (1) (a) Any inquiry in terms of this PART must be conducted, subject to this section, in accordance with the prescribed procedures.

(b) The Council may delegate to the professional conduct committee all or any of its powers to conduct an inquiry in terms of this PART.

(2) The proceedings at an inquiry referred to in subsection (1) must be minuted *verbatim*, in so far as it is practicable, and the minutes of such inquiry must be certified by the person presiding at such inquiry as being a true and accurate account of the evidence given and the exhibits presented, and of the decision of the Council or the professional conduct committee, as the case may be, at such inquiry.

(3) The minutes referred to in subsection (2) -

(a) must be kept in safe-custody by the registrar for a period of not less than five years; and

(b) are, for the purpose of an appeal in terms of section 63 or 64, proof until the contrary is proven of the proceedings at such inquiry and the decisions made by the Council or professional conduct committee, as the case may be, as a result of such inquiry.

(4) Any registered person in respect of whom an inquiry is to be conducted in terms of this PART must be notified in writing of such inquiry not less than 21 days before the date of commencement of such inquiry, by means of the delivery to that registered person of a notice in the prescribed form, informing him or her of -

(a) the date, time and venue of; and

(b) the particulars of the complaint, charge or allegation against him or her which will be investigated at,

such inquiry.

(5) The registrar, or a person designated by him or her in writing for such purpose, must serve the notice referred to in subsection (4) on the registered person referred to in that subsection, and obtain from that registered person a written acknowledgement of receipt stating the date, time and place of the service of such notice.

(6) If the registrar, or the person designated in terms of subsection (5), certifies in writing that the registered person upon whom the notice concerned is to be served in terms of that subsection -

(a) cannot be traced;

(b) refuses to accept service of such notice; or

(c) refuses to sign the required acknowledgement of receipt relating to the service of such notice,

the registrar may send such notice by prepaid registered letter, not less than 21 days before the date of the intended inquiry, to that registered person at his or her postal address as it appears in the relevant register of the Council.

(7) If the registered person served with a notice in terms of subsection (5), or to whom a notice has been sent in terms of subsection (6), is not present at the commencement of the inquiry concerned, the president of the Council, if the Council itself conducts the inquiry, or the chairperson of the professional conduct committee, if such a committee conducts the inquiry under powers assigned or delegated to it by the Council, may have the inquiry conducted, at his or her discretion, in the absence of that registered person.

(8) (a) For the purpose of an inquiry in terms of this PART, the Council or the professional conduct committee may summons any witness to appear at a specified date, time and venue to give evidence before the Council or the professional conduct committee, as the case may be, and to submit to it any document, book, record, or other thing relevant to the inquiry and specified in such summons.

(b) A summons to appear before the Council or the professional conduct committee as a witness or to produce to it any document, book, record or

thing referred to in paragraph (a), must be substantially in the prescribed form and be signed by the president of the Council or by the registrar, and must be served upon the person concerned either by prepaid registered letter or in the prescribed manner.

(c) Any person who has been duly summonsed in accordance with this subsection to appear before the Council or the professional conduct committee, as the case may be, for the purposes of an inquiry in terms of this PART and who -

(i) refuses or fails, without sufficient cause, to attend the inquiry concerned at the date, time and venue specified in the summons; or

(ii) refuses to take the prescribed oath or to make an affirmation when required by the person presiding at such inquiry to do so; or

(iii) leaves the inquiry concerned without the consent of the person presiding at such inquiry, whether or not that person has given evidence; or

(iv) refuses to give evidence before the Council or the professional conduct committee, or refuses to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her, or refuses to produce any document, book, record or thing which that person has in terms of the summons been required to produce,

is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(9) Every person summonsed in terms of subsection (8)(a) is entitled to all the privileges to which a witness subpoenaed to give evidence before the High Court is entitled.

(10) Every person whose conduct is the subject of an inquiry in terms of this PART, if that person is present at such inquiry, may answer himself or herself or through a legal practitioner, to any complaint, charge or allegation against him or her and be heard in his or her defence, and may for such purpose -

(a) give evidence under oath or affirmation;

(b) call witnesses to testify on his or her behalf;

(c) submit any document, book, record or any other thing relevant to the inquiry; and

(d) examine witnesses testifying against him or her.

(11) A registered person found guilty of unprofessional conduct in terms of this PART may -

(a) address the professional conduct committee;

(b) call witnesses to give evidence on his or her behalf,

in mitigation of sentence.

(12) The person presiding at an inquiry conducted in terms of this PART may appoint a legal practitioner having not less than ten years experience in the practising of

law to be present as an assessor at such inquiry and to advise the Council or the professional conduct committee, as the case may be, on matters of law, procedures or evidence.

(13) For the purpose of the computation of any period of time referred to in subsections (4) and (6), no Saturday, Sunday or public holiday may be regarded as a day referred to in those subsections.

(14) An inquiry conducted by the Council or by the professional conduct committee in terms of this PART, must be open to the public, unless the Council or such committee, as the case may be and subject to the proviso to Article 12(1)(a) of the Namibian Constitution, otherwise determines.

(15) If the Council fails to ratify a decision of the professional conduct committee in terms of section 12(2)(l) or (m), as the case may be, the Council must -

(a) refer the matter concerned back to the professional conduct committee, together with such recommendations as the Council may determine, for further consideration and the making of a decision; or

(b) conduct an inquiry in terms of this PART relating to the matter in respect of which the professional conduct committee made such decision.

Professional conduct inquiry in respect of registered person not to prejudice civil or criminal liability

48. (1) The institution of -

(a) a professional conduct inquiry against a registered person does not prejudice the right of any person, body or institution to institute civil proceedings, or the Prosecutor-General to institute criminal proceedings, or an employer to take disciplinary action, against that person based on the same facts; or

(b) civil or criminal proceedings against a registered person or the fact that an employer has taken action against a person does not prejudice the right of the Council to institute a professional conduct inquiry against that person, and from imposing a penalty on that person for unprofessional conduct arising from the same facts.

(2) Any incriminating reply or information obtained, or incriminating evidence directly or indirectly derived from questioning in a professional conduct inquiry is not admissible as evidence against the person concerned in criminal or civil proceedings in a court of law.

(3) Notwithstanding subsection (2), incriminating evidence referred to in that subsection is admissible in criminal proceedings where the person stands trail on a charge referred to in section 47(8)(c).

Penalties for false evidence

49. Any person who gives false evidence on oath at any inquiry conducted in terms of this PART, knowing that evidence to be false, is guilty of an offence and on conviction liable to the penalties prescribed by law for the crime of perjury.

Penalties by Council or professional conduct committee for unprofessional conduct

50. (1) Every registered person who, after an inquiry conducted by the Council or the professional conduct committee, as the case may be, in terms of this PART, is found guilty of unprofessional conduct or conduct which is unprofessional when regard is had to

that registered person's profession, or who admits that he or she is guilty of the charge concerned, is liable to any one or more of the penalties consisting of -

(a) a reprimand or a caution;

(b) suspension for a specified period of time from practising or performing acts especially pertaining to the profession in respect of which that person is registered;

(c) removal of the name of that registered person from the register concerned;

(d) payment of a fine not exceeding the prescribed amount.

(2) The Council may recover any fine imposed in terms of subsection (1)(d) by means of proceedings in a competent court.

(3) The Council and the professional conduct committee must -

(a) set out fully in writing its findings and the penalties (if any) imposed in terms of this section; and

(b) make such findings and the penalties known to any prescribed body or person in writing.

(4) The registrar must inform a registered person who has been found guilty of unprofessional conduct in terms of this PART, whether or not that registered person was present at the inquiry concerned -

(a) in the case of penalties imposed in terms of subsection (l)(a), of the findings of the Council or the professional conduct committee, as the case may be, and the penalties concerned by forwarding a copy of such findings and particulars of the penalties, duly signed by the person who presided at the inquiry, by prepaid registered letter to his or her address as it appears in the relevant register of the Council;

(b) in the case of penalties imposed in terms of subsection (l)(b), (c), or (d), by serving a copy of the findings of the Council and particulars of the penalties, duly signed by the person who presided at the inquiry, or having such a copy served -

(i) upon him or her personally; or

(ii) at his or her place of business on any partner, employer or employee of that person.

(5) If the registered person referred to in subsection (4) or the person referred to in subsection (4)(b)(ii), as the case may be -

(a) cannot be traced;

(b) refuses to accept service of the documents concerned; or

(c) refuses to sign an acknowledgement of receipt relating to the service of such copy of the findings and particulars of the penalties referred to in subsection (4),

the registrar may serve such copy of the findings and particulars of the penalties upon that registered person by means of a prepaid registered letter addressed to that registered person's postal address as it appears in the register concerned.

(6) The partner, employer or employee upon whom a copy of the findings and the penalties is served in terms of subsection (4)(b)(ii), must acknowledge receipt thereof in writing and state his or her capacity.

(7) When a person has been found not guilty of unprofessional conduct, the registrar must inform that person of the findings of the Council or the professional conduct committee by prepaid registered letter addressed to that person at his or her postal address as it appears in the register concerned.

(8) A finding made, or a penalty imposed, by the Council or the professional conduct committee in an inquiry conducted in terms of this PART is, unless appealed against in terms of section 63, of force and effect after the date determined by the Council or such committee.

(9) Notwithstanding subsection (8), if an appeal is lodged against a penalty for the removal or suspension of any registered person from practice, such penalty remains effective until the appeal has been finally determined.

Postponement of imposition of penalty and suspension of execution of penalty

51. (1) If the Council or the professional conduct committee finds a person guilty of unprofessional conduct after the conducting of an inquiry in terms of this PART, it may -

(a) postpone for such period of time and on such conditions as it may determine, the imposition of any penalty; or

(b) impose any penalty mentioned in paragraph (b), (c) or (d) of section 50(1), but order the execution of such penalty to be suspended for such period of time and on such conditions as it may determine.

(2) (a) If at the end of the period of time for which the imposition of a penalty was postponed in terms of subsection (l)(a) the Council is satisfied that the person concerned has observed all the relevant conditions relating to such suspension, the Council must give notice to that person that no penalty will be imposed upon him or her.

(b) If the execution of a penalty has been suspended in terms of subsection (l)(b) and -

(i) the Council is satisfied that the person concerned has observed all relevant conditions throughout the period of such suspension, the Council must give notice to that person that such penalty will not be executed;

(ii) the person concerned has failed to observe any of the conditions of such suspension, the Council must put the suspended penalty into operation by notice to that person, unless that person satisfies the Council that the non-observance of the condition concerned was due to circumstances beyond that person's control.

(c) Before the Council may put a suspended penalty into operation in terms of paragraph (b)(ii), the Council must -

(i) give notice to the registered person concerned of its intention to put such suspended penalty into operation;

(ii) inform the registered person concerned, in the notice in terms of subparagraph (i), that he or she may make written representations to the Council within the period of time specified in such notice, putting

forward reasons why the Council should not put the suspended penalty concerned into operation.

(d) The Council must give notice to the registered person concerned -

(i) of its decision relating to the representations, if any, made by that registered person referred to in paragraph (c)(ii); and

(ii) whether or not it is putting the suspended penalty into operation.

(3) The Council may terminate, if it considers it appropriate and subject to such conditions, if any, as it may determine, the suspension of the execution of a penalty in terms of subsection (1) before the expiry of the period of such suspension.

(4) Before the Council may terminate the suspension of a penalty in terms of subsection (3), it must -

(a) give notice to the registered person concerned of its intention to terminate the suspension of the penalty concerned; and

(b) inform the registered person concerned, in the notice in terms of paragraph (a), that he or she may make written representations to the Council within the period of time specified in such notice, putting forward reasons why the Council should not terminate the suspension of the penalty concerned.

(5) The Council must give notice to the registered person concerned -

(a) of its decision relating to the written representations, if any, made by that registered person referred to in subsection (4)(b); and

(b) whether or not it is terminating the suspension of the penalty concerned.

(6) Any notice by the Council in terms of this section to any registered person must be in writing and be given by prepaid registered letter, addressed to the postal address of that registered person as it appears in the register concerned.

(7) The Minister may prescribe procedures additional to the procedures contained in this section relating to -

(a) the postponement of the imposition of penalties and the imposition of such penalties; and

(b) the suspension of the execution of penalties and the putting into operation of such suspended penalties.

Effect of suspension or removal from register

52. (1) Every person who has been suspended in terms of section 50(1)(b) from practising the profession in respect of which he or she is registered, or from performing certain acts, or whose name has been removed from the register in terms of section 50(1)(c), is disqualified from practising such profession.

(2) The registration certificate of the registered person referred to in subsection (1) is regarded to be cancelled until the period of suspension has expired, or his or her appeal against such penalty is upheld, or his or her name has been restored to such register by the Council, as the case may be.

(3) Any person who practises in contravention of subsection (1) is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Cognisance by Council of conduct of registered persons under certain circumstances

53. (1) Every registered person who, either before or after registration, has been convicted of any offence by a court of law may be dealt with by the Council in terms of the provisions of this PART, if the Council is of the opinion that such offence constitutes unprofessional conduct.

(2) A registered person referred to in subsection (1) is liable upon proof of the conviction referred to in that subsection, to any one or more of the penalties referred to in section 50(1).

(3) The Council must afford, before the Council imposes upon the registered person concerned any penalty referred to in subsection (2), that registered person the opportunity, by himself or herself or through a legal practitioner, to tender an explanation to the Council in mitigation of the conduct concerned.

(4) If in the course of any proceedings before any court of law it appears to the court that there is proof until the contrary is proven of unprofessional conduct on the part of a registered person, or of conduct which, when regard is had to that person's profession, is unprofessional, the court must direct that a copy of the record of such proceedings, or such portion thereof as is material to such conduct, be submitted to the Council.

(5) The Council may request from the clerk of any court a transcript of any proceedings finalised before such court and which has relevance to any inquiry conducted by the Council.

(6) The clerk of the court referred to in subsection (5) must make the transcript referred to in that subsection available to the Council as soon as practicable.

***Pro forma* complainants**

54. (1) If the Council exercises the powers conferred upon it by section 46, it may appoint any person as *pro forma* complainant to present the case to the Council.

(2) No member of the Council may be appointed as a *pro forma* complainant in terms of subsection (1).

(3) The Council may appoint, subject to subsection (2), any other person to institute proceedings or to continue proceedings, as the case may be, in any case referred to in subsection (1) serving before the Council, if the person appointed in terms of that subsection (1) is for any reason unable to act as a *pro forma* complainant.

Limitation of liability

55. Unless otherwise provided in this Act, the Minister, the Permanent Secretary, the Council or any committee thereof, any member of the Council or of any such committee, the Interim Council or any member thereof, any officer or employee of the Council, or the registrar, is not liable in respect of anything done or omitted to be done in good faith in the exercise of a power or the performance of a duty or function in terms of this Act, or anything that may result from anything so done or omitted.

Investigation, assessment and powers of Council in respect of impaired registered persons

56. (1) For the purposes of this section -

(a) "impaired" means -

(i) a mental or physical condition; or

(ii) the abuse of, or the dependence on, any medicine, scheduled substance, dependence-producing substance, chemical substance or any other substance,

which negatively affects the competence, attitude, judgement or performance of any registered person; and

(b) "dependence-producing substance" means dependence-producing substance as defined in section 1 of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971);

(2) If it appears to the Council, after an investigation in terms of subsection (4)(a), (b) and (c), that any registered person has become impaired to such an extent that -

(a) it would be against the public interest to allow that person to continue to practise the profession in respect of which he or she is registered;

(b) he or she is unable to practise the profession in respect of which he or she is registered with reasonable skill or safety to his or her patients; or

(c) he or she has become unfit to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance,

the Council may deal with that person in the manner prescribed in terms of subsection (4).

(3) The provisions of subsection (2)(c) do not apply if any scheduled substance is administered -

(a) in accordance with a written authority granted by the Minister in terms of any law;

(b) subject to such conditions as may be specified in an authority referred to in paragraph (a); and

(c) to the particular person mentioned in an authority referred to in paragraph (a).

(4) The Minister may make, on the recommendation of the Council, regulations in respect of a registered person referred to in subsection (2), relating to -

(a) the investigation in respect of that person and the circumstances under which such an investigation may be conducted, including the procedures relating to such an investigation;

(b) the assessment of the condition of that person, including the procedures relating to such an assessment;

(c) the manner in which an investigation or inquiry must be conducted in order to make a finding relating to that person's competence to practise the profession in respect of which he or she is registered, including the procedures relating to such an inquiry;

(d) the conditions or restrictions which may be imposed on that person's registration or practice;

(e) the suspension or removal of that person from practising the profession in respect of which he or she is registered, and the manner in which such an order must be executed;

(f) the rescission of any condition imposed as contemplated in paragraph (d), or of an order for the suspension or removal from practising a profession as contemplated in paragraph (e);

(g) the specific acts of unprofessional conduct committed before or during an assessment, investigation or inquiry contemplated in this section; and

(h) generally all other matters which the Minister may consider necessary or expedient to be prescribed in order to achieve the purposes of this section.

(5) The Council may in writing appoint a person or committee to conduct the investigation, assessment or inquiry as contemplated in paragraph (a), (b) or (c) of subsection (4), as the case may be.

(6) Any person who practises the profession in respect of which he or she is registered, or performs any act relating to such profession, while he or she is suspended or removed from the register in accordance with any regulation made in terms of subsection (4), or who acts contrary to, or does not comply with, any condition applicable to him or her in terms of any such regulation, is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

PART VII
GENERAL AND SUPPLEMENTARY PROVISIONS

Charges by pharmacists

57. (1) No pharmacist may make or attempt to make or to recover, or enter into any agreement or associate himself or herself in any way with any other person for the purpose of making or determining excessive charges for any article supplied or to be supplied by him or her in his or her capacity as a pharmacist.

(2) For the purpose of subsection (1), the Council may in terms of section 67 determine the excessive charges which may not be charged by pharmacists.

(3) Any pharmacist who contravenes any provision of subsection (1) is guilty of unprofessional conduct, and on conviction in a professional conduct inquiry liable to any one or more of the penalties referred to in section 50.

Offences relating to registers, registration and impersonation

58. Any person who -

(a) procures or attempts to procure for himself or herself or for any other person registration in terms of this Act, or any certificate, order, receipt or prescription referred to in this Act by means of a false representation, whether verbally or in writing, or aids and abets any other person in doing so; or

(b) makes or causes to be made any unauthorised entry or alteration in, or removal from, a register or certified copy thereof or extract therefrom, or on any certificate or receipt issued in terms of this Act; or

(c) makes or causes to be made a false statement in connection with the identity or qualifications of himself or herself or of any other person applying for registration in terms of this Act; or

(d) except on the direction of the Council, wilfully destroys or damages or renders illegible, or causes to be destroyed, damaged or rendered illegible, any entry in a register or a certificate issued in terms of this Act; or

(e) forges, or knowing it to be forged, utters any document purporting to be a document issued in terms of this Act; or

(f) impersonates any registered person,

is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Commission on prescriptions

59. (1) No pharmacist may pay any person any commission on, or in any other manner reward a person in connection with, a prescription which a medical practitioner, dentist or veterinarian has furnished.

(2) Any pharmacist who contravenes subsection (1) is guilty of an offence and on conviction liable to the penalties specified in section 68(a), and may in addition be dealt with by the Council in terms of PART VI.

Limitations in respect of unregistered persons and proof of registration for issue of licences

60. (1) No remuneration is recoverable in respect of any act especially pertaining to the profession of a registered person when such act has been performed by a person who is not registered in terms of this Act to practise such profession or to perform such act for gain.

(2) No person other than a registered person holding the necessary qualifications is eligible for, or entitled to hold, any appointment with any establishment, institution, body, organisation or association, whether public or private, if that appointment involves the performance of any act which only a registered person may perform for gain in terms of this Act.

(3) Nothing in subsection (2) may be construed as prohibiting the education and training of persons in the professions to which this Act applies under the supervision of a registered person, or the employment in any hospital or similar institution of any person receiving education, tuition or training for the purpose of registration in terms of this Act.

(4) No licence or permit required to be obtained by a registered person in terms of any law may be issued by the issuing authority concerned in terms of such law, unless the person applying for such licence or permit submits to such authority a registration certificate, or a copy thereof certified by a commissioner of oaths as a true copy of the original, as proof that he or she is registered in terms of this Act.

(5) Any person who contravenes, or fails to comply with, any of the provisions of this section is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

Matters relating to investigations and inspections

61. (1) Notwithstanding anything in this Act or in any other law, the Council may authorise in writing any person -

(a) to investigate or inspect any matter relating to the education, tuition or training of any person receiving such education, tuition or training for the purpose of qualifying himself or herself to practise a profession to which this Act applies;

(b) to inspect the professional practice of any registered person, including the premises where such practice is being conducted.

(2) A person authorised in writing in terms of subsection (1) to conduct an investigation or inspection in terms of that subsection may enter, for the purposes of such investigation or inspection and upon producing such written authorisation, any premises, place, establishment or institution utilised in the teaching, tuition or training referred to in paragraph (a), or the conducting of the professional practice referred to in paragraph (b), of that subsection.

(3) Any person who prevents a person authorised in terms of subsection (1) from entering any premises, place, establishment or institution referred to in subsection (2), or who hinders the person so authorised in conducting therein or thereon an investigation or inspection in accordance with subsection (1), is guilty of an offence and on conviction liable to the penalties specified in section 68(a).

(4) A person authorised by the Council in terms of subsection (1) to conduct an investigation or inspection in terms of this section must report to the Council relating to such investigation or inspection in the form and manner determined by the Council and specified in the written authorisation issued in terms of that subsection.

(5) In so far as this section provides for a limitation on the fundamental rights contemplated in Article 13 of the Namibian Constitution, in that it authorises interference with the privacy of a person's home, correspondence or communication, that limitation is enacted upon the authority of that Article.

Licensing of pharmacist under Medicines and Related Substances Control Act

62. Notwithstanding the provisions of section 31 of the Medicine and Related Substances Control Act, 2003 (Act No. 13 of 2003) a pharmacist may only be licensed in terms of that Act upon the written approval of the Council confirming that the Council is satisfied that that pharmacist is competent to clinically assess and treat physical and mental deficiencies in persons in the ordinary course of the practising of his or her profession.

Appeals to appeal committee

63. (1) (a) Any person who is aggrieved by -

(i) a finding or a decision made; or

(ii) a penalty imposed; or

(iii) the refusal or failure to make a finding or a decision,

by the Council or by the professional conduct committee, may appeal, in the prescribed form and manner, to the appeal committee against such a finding or a decision made, or such a penalty imposed or such a failure to make a finding or a decision.

(b) A notice of appeal referred to in paragraph (a) must be submitted to the Council within a period of 30 days after the date upon which the finding concerned or the decision concerned was made or the penalty concerned was imposed, as the case may be.

(c) A notice of appeal in terms of paragraph (a)(iii) against the refusal or failure by the Council or the professional conduct committee to make a finding or a decision must be submitted to the Council not less than 30 days and not more than 60 days after the date of the delivery of a written notice to the registrar of the intention of the person concerned to lodge such an appeal.

(d) The registrar must refer, in the prescribed form and manner, a notice of appeal submitted to it in terms of paragraph (a) or (b) to the appeal committee as soon as practicable after the receipt of such notice of appeal.

(2) The appeal committee -

(a) must conduct an appeal in accordance with the provisions of this section;

(b) may -

(i) refer any appeal which it has to conduct to the Council or professional conduct committee, as the case may be, for further consideration;

(ii) obtain from the Council or from the professional conduct committee, as the case may be, such particulars, documents or information as the appeal committee may consider necessary for the purposes of conducting the appeal concerned;

(iii) allow or dismiss the appeal concerned;

(iv) amend or confirm the finding or the penalty made or imposed by the Council or the professional conduct committee relating to the appeal concerned;

(v) make an order as to the payment of costs and how such costs must be determined; or

(vi) make such other order in terms of this Act as the appeal committee may consider appropriate,

in the prescribed form and manner.

(3) The chairperson of the appeal committee must determine the procedures relating to the conducting of an appeal, if no procedures relating to such conducting of an appeal has been prescribed.

(4) A finding or a decision made, or a penalty imposed, by the appeal committee, unless appealed against in terms of section 64, becomes of force and effect upon the date determined by such committee.

(5) If an appeal to the High Court is lodged in terms of section 64 against a decision of the appeal committee for the removal or suspension from practice of any registered person, such a penalty remains effective until the appeal has been finally determined by the High Court.

Appeals to High Court

64. (1) Any person who is aggrieved by any decision of the appeal committee in terms of section 63 may appeal to the High Court against such decision.

(2) A notice of appeal relating to an appeal in terms of subsection (1) must be lodged, in the prescribed form and manner, with the registrar of the High Court within a period of 30 days after the date upon which the decision appealed against was made.

(3) The High Court may allow, on good cause shown, an appeal to be lodged after the expiry of the period of 30 days specified in subsection (2).

(4) The Minister may prescribe the procedures relating to the conducting of an appeal to the High Court in terms of this section, including the form of the notice of appeal concerned and the manner in which such notice must be lodged.

(5) The High Court may -

(a) request the appeal committee in writing to furnish the High Court with such documents or particulars as it may require;

(b) refer the matter to the appeal committee for further consideration;

(c) allow or dismiss an appeal lodged in terms of this section;

(d) make an order reversing or amending the decision of the appeal committee appealed against, if it is of the opinion that such committee has not acted in accordance with this Act;

(e) make an order relating to the payment of costs; or

(f) make such other order as it may consider appropriate.

Delegation of powers

65. (1) The Council, in addition to any delegation made in terms of this Act, may -

(a) delegate in writing to the registrar any power conferred upon it; or

(b) assign in writing to the registrar the performance of any function or duty entrusted to it,

by or in terms of this Act.

(2) A delegation or assignment made in terms of subsection (1) may be made subject to such conditions or restrictions as the Council may determine and specify in such delegation or assignment.

(3) The Council may withdraw or amend in writing any delegation or assignment made by it in terms of subsection (1).

(4) Subsection (6) of section 22 applies, with the necessary changes, in respect of any power delegated and any duty or function assigned in terms of subsection (1) of this section.

Regulations

66. (1) The Minister may make, on the recommendation of the Council, regulations relating to -

(a) the allowances payable to members of the Council or of a committee thereof for services rendered for and on behalf of the Council or such a committee;

(b) the form of the registers to be kept in terms of this Act and the manner in which they must be kept, which alterations may be effected to those registers, and the manner in which such alterations may be so effected;

(c) any certificate that may be issued by the Council, including the form of such certificate;

(d) (i) the registration by the Council of students studying or receiving education, tuition or training at an educational institution in Namibia or elsewhere relating to a profession mentioned in section 17(1), the requirements for such registration, the procedures relating to such registration, and the removal from the register by the Council of the names of students so registered in respect of the respective professions;

(ii) the exemption of students from registration in accordance with regulations made in terms of subparagraph (i);

(iii) the minimum requirements and duration of the curricula, courses or training required, and the standard or nature of education, tuition and training, and examinations pertaining thereto, which will enable a person to qualify for registration in terms of this Act;

(iv) the minimum requirements of the curricula and the standard and nature and duration of education, tuition, training and examinations which must be maintained by every educational institution at which education or training relating to a profession to which this Act applies is provided, in order to comply with the requirements of the Council for the recognition of such qualifications for the purpose of registering the holder thereof in terms of this Act; and

(v) the practical training, if any, to be completed by students, in addition to the education, tuition or training completed at an educational institution referred to in subparagraph (iii);

(e) (i) the nature and duration of practical training to be completed by an intern or other person who has obtained a qualification prescribed for registration in terms of this Act, before that person may be so registered, and the approval by the Council of persons or institutions with whom or at which such practical training may be completed, including the procedures relating to the application for such approval;

(ii) the circumstances under which any person referred to in subparagraph (i) may be exempted from the practical training referred to in that subparagraph, including the procedures relating to an application for such exemption;

(f) the examinations to be conducted in terms of this Act, the appointment and remuneration of examiners for the purposes of such examinations, and any other matter incidental to such examinations;

(g) (i) the registration of pharmacy practices by the Council, including the requirements relating to such registration, the application for such registration, the procedures relating to such application and the consideration of such application by the Council;

(ii) the registration of pharmacist interns, pharmaceutical technicians and pharmacist's assistants, the recording of particulars regarding their training and any matter incidental to the registration and training of pharmacist interns and pharmacist's assistants;

(iii) the hospitals or other facilities at which, or the persons with whom, the training referred to in subparagraph (ii) may be completed, and the procedures relating to, and manner of approval of, such hospitals, facilities or persons at which or with whom such training may be completed;

(h) the conditions subject whereto a registered person may practise his or her profession, including -

(i) the conducting of a practice by a sole owner or by registered persons practising in partnership;

(ii) the requirements relating to the establishing and the conducting of a practice referred to in subparagraph (i);

(iii) the registration by the Council of a practice referred to in subparagraph (i), including the procedures relating to the application for such registration and the issuing of a registration certificate;

(iv) the cancellation of the registration referred to in subparagraph (iii), including the reasons for, and the procedures relating to, such cancellation;

(i) (i) the form of the contract between a tutor pharmacist and pharmacist intern;

(ii) the facilities, material, equipment and other requisites to be provided in a pharmacy where a pharmacist intern is being trained;

(iii) the appointment of persons to inspect pharmacies where pharmacist interns will be trained and where they are being trained;

(iv) the acts which may be performed by a pharmaceutical technician or by a pharmacist's assistant, as the case may be;

(j) (i) the requirements to be complied with, including the practical experience to be completed, the nature and the duration of the training to be completed and the qualifications to be held by a person registered in any profession before that registered person may be registered as a specialist;

(ii) the circumstances in which any applicant for registration as a specialist may be exempted from any of the requirements contemplated in subparagraph (i), and the procedures relating to such exemption, including the procedures relating to the application for such exemption; and

(iii) the conditions pertaining to the practices of pharmacist in respect of any registered speciality, including conditions restricting the scope of practice of those pharmacists relating to such speciality;

(k) the conditions subject whereto registered persons may conduct practices relating to their professions;

(l) the ethical standards and code of conduct of registered persons;

(m) the scope of practice relating to the professions to which this Act applies and of the registered persons practising such professions, including, but not limited to, the specifying of the acts which for the purposes of this Act must be regarded as acts especially pertaining to such professions and practices, and specifying the conditions restricting the practising of such professions;

(n) the continuing professional development applicable to registered persons, including the attendance and presenting thereof by registered persons;

(o) the acts which may be performed by a pharmaceutical technician or a pharmacist assistant, including, but not limited to, specifying the acts which for the purposes of this Act must be regarded as acts specially pertaining to those professions, and specifying conditions restricting the practising of such professions;

(p) the supplementary training or refresher courses to be completed by persons registered in terms of this Act, and the conducting and control of such supplementary training or refresher course;

(q) the procedures relating to the convening and the conducting of meetings, and to the election of the members of the Council, including the nomination of candidates for election;

(r) the requirements for a quorum at any meeting of the Council;

(s) the instituting and conducting of a professional conduct inquiry in terms of PART V, including -

(i) the procedures for the lodging of a complaint, charge or allegation against a registered person;

(ii) the form of a subpoena for the purpose of the attendance of a witness at the inquiry concerned, or for the production of any book, record, document or thing by that witness;

(iii) the penalties for the failure or refusal on the part of a person against whom a complaint, charge or allegation has been lodged to attend an inquiry relating to such complaint, charge or allegation, or for obstructing or interrupting any part of the proceedings at such inquiry;

(iv) the leading of evidence, the recording of the proceedings and the actions to be taken against any person who refuses to answer any question or who in any way delays, obstructs or disrupts the proceedings at an inquiry;

(v) the continuation of an inquiry after a plea has been entered, should one or more of the members of the professional conduct committee be unable to continue to serve on such committee, but not less than two of the original members of the committee must remain available for the purpose of continuing such inquiry;

(vi) the institution of inquiry proceedings *de novo* in the event of the two members referred to in subparagraph (v) not being available; and

(vii) any other matter relating to the institution and conduct of such inquiry;

(t) the procedures relating to the lodging of an appeal to be heard by the appeal committee, including the form of such notice of appeal, and any other matter relating to the conduct of such an appeal;

(u) the circumstances, in addition to the circumstances referred to in this Act, in which a name may be removed from, or restored to, a register;

(v) the manner in which the Council may perform or execute any power or function in terms of this Act;

(w) the conducting of investigations and inspections in terms of section 61,

including-

(i) the powers of the persons authorised to conduct such investigations and inspections;

(ii) the powers of the Council relating to a report received from a person referred to in subparagraph (i), including the powers to close down the practice or premises referred to in subsection (1)(b) of that section for such period of time as the Council may determine; and

(x) generally all other matters which are by this Act required or permitted to be prescribed or which the Minister considers necessary or expedient to be prescribed in order to achieve the purposes and objects of this Act.

(2) A member of the Council or of a committee referred to in paragraph (a) of subsection (1) who is also a staff member or otherwise in the full-time employment of the Public Service is not required to pay into the State Revenue Fund any allowances paid to him or her in terms of any regulations made in terms of that paragraph.

(3) If a scope of practice referred to in paragraph (m) of subsection (1) is extended to encroach upon the scope of practice of a health profession to which this Act does not apply, the regulations concerned may only be made after consultation with the Professional Council or other governing body established by law in respect of such health profession.

(4) Any regulation made in terms of this section may prescribe, unless otherwise provided in this Act, a fine not exceeding N$4 000 or a period of imprisonment not exceeding 12 months, or both such fine and such imprisonment, as penalties for the contravention of such regulation or failure to comply therewith.

General rules by Council

67. (1) The Council may make rules relating to -

(a) the conduct of the business and the procedure at meetings of the Council, and the manner in which minutes of such meetings must be kept;

(b) the manner in which contracts must be entered into on behalf of the Council, the handling of funds and the bookkeeping of the Council;

(c) the duties and conditions of service of the registrar and other employees of the Council;

(d) the forms to be completed and the documents to be submitted by any applicant in terms of this Act;

(e) the returns and information to be furnished by any person registered in terms of this Act;

(f) what constitutes good pharmacy practice and professional practice for the professions to which this Act applies,

and any other matter that the Council considers expedient or necessary to make rules on, in order to achieve its objects and perform its functions in terms of this Act.

(2) The president must publish the rules made in terms of subsection (1) by notice in the *Gazette.*

(3) A rule made by the Council in terms of subsection (1) will not be of force and effect until published in the *Gazette* in terms of subsection (2).

Offences and penalties

68. Any person convicted of any offence in terms of -

(a) section 11(10)(b), 16(11), 33(4), 35(25)(b), 36(25)(b), 40(4), 44(2), 47(8), 60(5), or 61(3) is liable to a fine not exceeding N$6 000 or to imprisonment for a period not exceeding 18 months, or to both such fine and such imprisonment;

(b) section 17(4), 23(7), 26(8), 31(9), 35(25)(a), 36(25)(a), 38(4), 39(3), 43(1), 44(1), 52(3), 58 or 59 is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

Authorisation to practise professions in employment of State

69. (1) The Minister may prescribe, after consultation with the Council, the conditions and requirements with which a person must comply in order to qualify for the granting of a written authorisation in terms of this section to practise, in the employment of the State, a profession to which this Act applies.

(2) Any person who -

(a) is not a registered person;

(b) who complies with the conditions and requirements prescribed in terms of subsection (1); and

(c) (i) who is entitled in terms of the laws of any other country or state prescribed by the Minister for such purpose, to practise the profession concerned in such country or state; or

(ii) if he or she is not entitled to practise the profession concerned as contemplated in subparagraph (i), that person has obtained at an educational institution situated outside Namibia a qualification or has received education, tuition or training in or relating to such profession which in the opinion of the Minister indicates a satisfactory standard of professional education which will enable that person to practise such profession,

may apply to the Minister, in such form and manner as the Minister may determine in writing, for the granting of a written authorisation to practise such profession in the employment of the State.

(3) An application in terms of subsection (2) must be accompanied by -

(a) written proof -

(i) of the qualification or qualifications upon which the applicant relies to be granted the written authorisation concerned; and

(ii) that the applicant is entitled in terms of the laws of any other country or state prescribed by the Minister in terms of subsection (2)(c) for such purpose, to practise the profession concerned, alternatively complies with subsection (2)(c)(ii);

(b) documentary proof of his or her identity; and

(c) a letter of good standing, if the applicant is a person referred to in subsection (2)(c)(i), issued by the registering authority relating to the profession concerned in respect of each country in which the applicant has practised the profession concerned during the period of five years immediately preceding the date of such application,

to the satisfaction of the Minister.

(4) Notwithstanding anything in this Act or in any other law, but subject to this section, the Minister may grant -

(a) after consultation with the Council; and

(b) if the person who has applied in terms of subsection (2) for the granting of a written authorisation to practise a profession in the employment of the State, complies with the prescribed conditions or requirements, and with such additional conditions and requirements as the Minister in any individual case may determine,

to that person a written authorisation to practise such profession in the employment of the State.

(5) A person to whom a written authorisation had been granted in terms of subsection (4) may practise the profession in respect of which he or she has been so authorised only -

(a) at such hospital, clinic or similar institution controlled, managed or subsidised by the State;

(b) for the period of time; and

(c) subject to such restrictions and conditions in respect of his or her professional activities, including that he or she may only practise his or her profession subject to such supervision,

as the Minister may determine and specify in such written authorisation.

(6) A person to whom a written authorisation had been granted in terms of subsection (4) is entitled to perform any act falling within the scope of practice relating to the profession which that person is so authorised to practise, subject to the restrictions and conditions imposed upon him or her as specified in such written authorisation.

(7) The Minister may amend or revoke, at any time and at his or her discretion, any written authorisation granted in terms of subsection (4), including the extension of the period of time for which such written authorisation had been granted or the imposition of additional conditions or restrictions.

(8) Before granting a written authorisation in terms of subsection (4), the Minister may require the applicant to sit for an examination before, or an evaluation by, the examiner or examiners appointed by the Minister in writing for the purpose of ascertaining whether that applicant -

(a) possesses sufficient professional competence, knowledge and skills pertaining to the profession to which such application relates; and

(b) is proficient in the official language of Namibia.

(9) The Minister must submit to the Council, as soon as practicable, a copy of the written authorisation granted in terms of subsection (4).

(10) PART VI applies with the necessary changes to any person authorised in terms of this section to practise a profession to which this Act applies as if that person were registered in terms of this Act to practise such profession.

(11) Any person authorised in terms of this section to practise a profession to which this Act applies and who contravenes or fails to comply with any restriction or condition in respect of his or her professional activities as specified in such authorisation is guilty of an offence and on conviction liable to the penalties specified in section 68(b).

Establishment of Interim Council

70. (1) The Minister may establish by notice in the *Gazette* an Interim Council.

(2) The Minister may appoint in writing as the members of the Interim Council -

(a) not less than two pharmacists who must be staff members, and of whom -

(i) one must be a community pharmacist; and

(ii) one must be, in the opinion of the Minister, suitably qualified, having regard to the functions of the Interim Council, to serve as a member of such Council;

(b) not less than two pharmacists who are not staff members;

(c) one legal practitioner having not less than ten years experience in the practising of law; and

(d) not less than one person who is not a registered person.

(3) The Registrar of Medicines referred to in section 7(7)(a) is a member of the Interim Council *ex officio*.

(4) The registrar will act as the secretary of the Interim Council.

(5) The Minister may appoint in accordance with subsection (2), but subject to the other provisions of this section, any person to replace any member of the Interim Council -

(a) who has vacated office in terms of section 9(1); or

(b) is removed from office in terms of section 9(2).

(6) A person appointed in terms of subsection (2) as a member of the Interim Council, who is not a staff member or otherwise in the full-time employment of the Public Service, may be paid such remuneration in respect of his or her membership as the Minister may determine with the concurrence of the Minister responsible for Finance.

(7) The Interim Council established in terms of subsection (1) -

(a) may exercise the powers and perform the duties and functions of the Council conferred or imposed upon the Council by or in terms of this Act; and

(b) acts for and on behalf of the Council and in its name, place and stead,

as if it were the Council until such time as the Council has been constituted in terms of section 7.

(8) For the purposes of this section, any reference in his Act to the Council, unless the context otherwise indicates, must be regarded as a reference to the Interim Council.

(9) Any -

(a) power exercised or duty or function performed by the Interim Council by virtue of subsection (7);

(b) person appointed or employed by the Interim Council, or regarded to have been so appointed or employed,

will be regarded as having been so exercised or performed, or having been so appointed or employed, by the Council.

(10) Upon the date of the publication in the *Gazette* of a notice in terms of subsection (8) of section 7, the Interim Council established in terms of subsection (1) will be regarded to have been disestablished.

(11) Any application for registration submitted to the Interim Council in terms of this Act, or regarded in terms of section 71(5) to have been submitted to the Interim Council and not finalised upon the date referred to in subsection (10), must be finalised by the Council in accordance with the provisions of this Act.

(12) Any disciplinary proceedings commenced with by the Interim Council before the date referred to in subsection (10), or pending before the Interim Council or any committee upon such date, must be finalised by the Council in accordance with PART VI.

(13) No provision of this section implies that any member of the Interim Council continues to be a member of the Council.

Transitional provisions

71. (1) Any person -

(a) who was registered to practise any of the professions mentioned in section 17(1); or

(b) in respect of whom an additional qualification, professional category, additional professional category or speciality was registered,

in terms of any law repealed by section 72, immediately before the commencement date, is regarded, or the additional qualification or speciality referred to in paragraph (b), is regarded, as the case may be, to have been so registered in terms of this Act, subject to any restriction, condition or penalty relating to the practising of his or her profession imposed upon him or her in terms of any such repealed law.

(2) A person whose name immediately before the commencement date appears in a register referred to in section 25(1), is for all purposes from the commencement date regarded to be registered in terms of, and subject to, the provisions of this Act.

(3) For the purposes of this Act, any period of practical training completed before the commencement date in terms of any of the laws repealed by section 72 is regarded, from that date, to have been a period of practical training completed in terms of this Act.

(4) (a) Any disciplinary proceedings or criminal proceedings instituted in terms of or pursuant to any law repealed by section 72 and not finalised immediately before the commencement date may be continued or enforced as if the law concerned had not been repealed.

(b) Any finding made or a penalty imposed in any disciplinary proceedings referred to in paragraph (a) is regarded for all purposes to be a finding made or a penalty imposed in terms of this Act.

(5) Any application for registration submitted to the former Pharmacy Board and not finalised before the commencement date, must from that date be finalised by the Council in accordance with the corresponding provisions of this Act.

(6) Any person employed by the former Pharmacy Board immediately before the commencement date, is regarded from that date to be so employed by the Council or by the Interim Council, as the case may be, in terms of section 14 on the same conditions of service as were applicable to that person on that date.

(7) Notwithstanding the repeal of the Council for Health and Social Services Professions Act, 1993 (Act No. 29 of 1993) by any other law, the staff member designated as registrar in terms of section 13 of that Act and in office immediately before the date of such repeal, continues from that date to be the registrar of the Council or of the Interim Council, as the case may be, as if that Act had not been so repealed, until the appointment of the registrar in terms of section 14(1) of this Act.

Repeal of laws and savings

72. (1) Subject to subsection (2), the laws specified in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Except as otherwise provided in section 71, any notice, regulation, rule, authorisation or order issued, made or granted, or any removal from the register, appointment or any other act done, or regarded to have been issued, made, granted, or done under or in terms of a provision of the laws repealed by subsection (1) must be regarded as having been issued, made, granted, or done under the corresponding provision of this Act and continues to have force and effect -

(a) except if it is inconsistent with this Act; or

(b) until it is set aside or repealed.

(3) For the purposes of subsection (2), any rules referred to in that subsection relating to improper conduct or misconduct must be construed as a reference to rules relating to unprofessional conduct.

(4) Any reference to the former Pharmacy Board in any law must be regarded, unless the context otherwise indicates, to be a reference to the Council.

(5) Subsection (2) does not imply that any member of the former Pharmacy Board continues to be a member of the Council after the commencement date.

Short title and commencement

73. This Act is called the Pharmacy Act, 2004, and will come into operation on a date to be determined by the Minister by notice in the *Gazette.*

SCHEDULE
LAWS REPEALED
(Section 72)

Number and year of law	Short title of law	Extend of repeal
Act No. 23 of 1993	Pharmacy Professions Act, 1993	The whole
Act No. 22 of 1994	Pharmacy Professions Amendment Act, 1994	The whole
Act No. 7 of 1998	Pharmacy Professions Amendment Act, 1998	The whole
Act No. 21 of 2003	General Law (Health Professions) Amendment Act, 2003	Section 4