

**THE PHARMACY AND POISONS
(AMENDMENT) ACT 1968**

No. 3 of 1968

Date of Assent: 24th January 1968

Date of Commencement: 26th January 1968

**An Act of Parliament to amend the Pharmacy and Poisons
Act**

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Pharmacy and Poisons (Amendment) Act 1968.

Short title.

2. Section 2 (1) of the Pharmacy and Poisons Act (hereinafter referred to as the principal Act) is amended—

Amendment of section 2 of Cap. 244.

(a) by substituting for the definition of "*British Pharmaceutical Codex*" and "*British Veterinary Codex*" which appears therein, a new definition as follows—

"British Pharmaceutical Codex" and *"British Veterinary Codex"* mean the editions for the time being current of the books published under those names by the Pharmaceutical Society of Great Britain and any addenda thereto;

(b) by substituting for the definition of "*British Pharmacopoeia*", which appears therein, a new definition as follows—

"British Pharmacopoeia" means the edition for the time being current of the book published under that name pursuant to section 54 of the Medical Act 1958 of the United Kingdom;

(c) by substituting for the definition of "duly qualified", which appears therein, a new definition as follows—

"duly qualified", in relation to a medical practitioner, dentist or veterinary surgeon, means permitted by law to practise his profession as such in Kenya, Uganda or Tanzania;

(d) by inserting in their alphabetical positions two new definitions as follows—

"International Pharmacopoeia" means the edition for the time being current of the book published under that name by the World Health Organization and any addenda thereto;

“registered midwife” means a person permitted by law to practise the profession of midwife in Kenya, Uganda or Tanzania;

Amendment of section 8 of principal Act.

3. Section 8 (b) of the principal Act is amended by substituting for the words “he is qualified to have his name registered under the provisions of the Pharmacy Act 1954, of the United Kingdom”, which appear therein, the words “he holds a qualification (whether of Kenya or of some other country) which the Board considers acceptable”.

Amendment of section 19 of principal Act.

4. Section 19 (4) of the principal Act is amended by substituting for all the words appearing therein after the words “particular person” the words “by a medical practitioner or his assistant working under his immediate supervision, direction and control, a qualified dentist or a qualified veterinary surgeon, for the purpose of legitimate medical treatment, dental treatment or veterinary treatment, as the case may be.”

Amendment of section 26 (1) of principal Act.

5. Section 26 (1) of the principal Act is amended by adding at the end thereof two new paragraphs as follows—

(f) subject to any conditions which may be prescribed, a representative of a person engaged in the business of selling and supplying pharmaceutical goods, for the purpose of giving free samples of such goods, in the course of such business, to persons who may lawfully be in possession of Part I poisons;

(g) the personal representative of any deceased person, or the liquidator, receiver or other person appointed to deal with the property of a bankrupt or of a company which is being wound up compulsorily, or the manager of the estate of a person of unsound mind, in respect of poisons in the possession of the deceased person, bankrupt person, company or person of unsound mind at the time of the death or bankruptcy or the beginning of the winding up or the order appointing the manager, for the purpose of disposing of those poisons, with the written permission of the Board and in accordance with its directions, to a wholesale dealer in poisons licensed under this Act or to an authorized seller of poisons.

Amendment of sections 26, 29 and 30 of principal Act.

6. Sections 26 (2), 29 (4) and 30 (3) of the principal Act are each amended—

(a) by substituting for the words “two thousand”, which appear therein, the words “five thousand”; and

(b) by substituting for the words "three months", which appear therein, the words "one year".

7. Section 29 (1) of the principal Act is amended by substituting for paragraphs (a), (b), (c) and (e) thereof four new paragraphs respectively as follows—

Amendment of section 29 of principal Act.

- (a) a person lawfully carrying on the business of a wholesale dealer in poisons in Kenya, Uganda or Tanzania;
- (b) a person lawfully carrying on the business of a pharmacist in Kenya, Uganda or Tanzania;
- (c) a person lawfully carrying on the business of a dealer in poisons for mining, agricultural or horticultural purposes in Kenya, Uganda or Tanzania;
- (e) the Government, the Community or a local authority or its institutions, or the government or a local authority of Uganda or Tanzania or its institutions, for public purposes.

8. Sections 29 (4) and 33 (2) of the principal Act are each amended by adding at the end of the proviso thereto the words "or for a person whose licence has been revoked or has expired to sell the poisons in his possession at the time of revocation or expiry, if the sale takes place within three months after the time of revocation or expiry or such longer time as the Board may allow".

Amendment of sections 29 and 33 of principal Act.

9. Section 31 of the principal Act is amended—

Amendment of section 31 of principal Act.

(a) by adding at the end of subsection (1) thereof the words "and a registered midwife practising domiciliary midwifery may supply or dispense a Part I poison in accordance with the regulations made under the Nurses, Midwives and Health Visitors Act 1965 if he complies with paragraph (b) of this subsection in relation to the supplying or dispensing of the poison"; and

21 of 1965.

(b) by adding at the end of subsection (3) the words "and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment".

10. Section 32 of the principal Act is amended—

Amendment of section 32 of principal Act.

(a) in subsection (1) thereof, by substituting for the words "Provincial Commissioner of the province in which he proposes to sell such poisons", which appear

therein, the words "the Board or a person appointed by it in writing for the purpose";

(b) in subsection (2) thereof, by substituting for the words "a Provincial Commissioner", which appear therein, the words "the Board or the person appointed by it";

(c) in subsection (3) thereof, by substituting for the words "Provincial Commissioner issuing it", which appear therein, the words "Board or the person appointed by it";

(d) in subsection (5) thereof, by substituting for the words "A Provincial Commissioner", which appear therein, the words "The Board or the person appointed by it";

(e) by substituting for subsection (6) thereof a new subsection as follows—

(6) The registrar shall keep a register in the prescribed form of all licences issued under this section.

Amendment of section 33 of principal Act.

11. Section 33 (1) of the principal Act is amended by adding at the end of paragraph (a) thereof the words ", and to persons licensed under section 32 of this Act in accordance with their licences".

Amendment of section 41 of principal Act.

12. Section 41 (2) (a) (ii) of the principal Act is amended by inserting the words "or the *International Pharmacopoeia*" immediately after the words "*British Pharmaceutical Codex*", which appear therein.

Insertion of new sections in principal Act.

13. There shall be inserted in the principal Act, immediately after section 42 thereof, two new sections as follows—

Proceedings on charge of selling poisons, etc.

42A. Where a person is charged with an offence under section 26, section 29 or section 33 of this Act by reason of his having sold or been in possession of a container labelled as containing poisons, and the container appears to have been packed by the manufacturer of the contents and to be intact, the container shall be presumed to contain poisons of the description specified on the label, until the contrary is proved.

Appeals.

42B. An appeal under any of sections 27 (2), 28 (3), 32 (5) and 50 (2) of this Act shall be in writing, and shall be lodged within thirty days after the date of the act appealed against.

14. Section 44 (1) of the principal Act is amended by inserting therein, immediately after paragraph (f) thereof, a new paragraph as follows—

Amendment of section 44 of principal Act.

(ff) the importation of drugs;

15. Section 51 of the principal Act is amended—

Amendment of section 51 of principal Act.

(a) by substituting for the words “five hundred”, which appear therein, the words “two thousand”; and

(b) by substituting for the words “one month”, which appear therein, the words “three months”.