



New South Wales

Pharmacy (General) Amendment (Exceptions) Regulation 2002

under the

Pharmacy Act 1964

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pharmacy Act 1964*.

CRAIG KNOWLES, M.P.,

Minister for Health

Explanatory note

Section 25 of the *Pharmacy Act 1964* (*the Act*) provides that a person (other than a pharmacist), a corporation or an unincorporated body must not have an interest in a pharmacy business except in certain circumstances, including circumstances prescribed by the regulations. Clause 21 of the *Pharmacy (General) Regulation 1998* prescribes those circumstances and operates to continue exceptions for interests in pharmacy businesses that were permitted under provisions of section 25 of the Act that were repealed in 1990.

The object of this Regulation is to restate the provisions of clause 21 to provide that the continued exceptions are subject to the relevant pharmacy business not being relocated in the future and to make it clear that those continued exceptions are not affected by:

- (a) an alteration in the trading name under which the pharmacy business is being carried on, or
- (b) a relocation, during a certain period, of the pharmacy business concerned with or without the approval of the Minister, the relocation being from one shop to another within an allowable area (defined by reference to the original “prescribed area” within which the Minister could approve of such relocations under the repealed provisions).

2002 No 939

Pharmacy (General) Amendment (Exceptions) Regulation 2002

Explanatory note

This Regulation is made under the *Pharmacy Act 1964*, including sections 25 and 38 (the general regulation-making power).

Pharmacy (General) Amendment (Exceptions) Regulation 2002

1 Name of Regulation

This Regulation is the *Pharmacy (General) Amendment (Exceptions) Regulation 2002*.

2 Commencement

This Regulation commences on 1 January 2003.

3 Amendment of Pharmacy (General) Regulation 1998

The *Pharmacy (General) Regulation 1998* is amended as set out in Schedule 1.

2002 No 939

Pharmacy (General) Amendment (Exceptions) Regulation 2002

Schedule 1 Amendment

Schedule 1 Amendment

(Clause 3)

Clause 21

Omit the clause. Insert instead:

**21 Savings for pecuniary interests before 5 October 1990
(section 25)**

- (1) For the purposes of section 25 (2) (c) of the Act, an individual, a body corporate or an unincorporated body is not prevented from having a pecuniary interest in a pharmacy business if:
 - (a) the interest is an interest that the individual, body corporate or unincorporated body had immediately before 5 October 1990 and that was lawful pursuant to section 25 (2) (b), (b1), (c), (d), (e) or (f) of the Act (as in force immediately before that day), and
 - (b) the interest is the same interest in the same pharmacy business as the individual, body corporate or unincorporated body had immediately before 5 October 1990, and
 - (c) the pharmacy business is carried on in the shop in which it was carried on immediately before the commencement of the *Pharmacy (General) Amendment (Exceptions) Regulation 2002*, and that shop is either the shop in which that business was carried on immediately before 5 October 1990 (referred to in this clause as the ***original shop***) or a shop in the prescribed area for the original shop.
- (2) The ***prescribed area*** for the original shop means, for the purposes of subclause (1) (c):
 - (a) if the original shop was situated in the area that consists of the County of Cumberland, the County of Northumberland and the City of Wollongong—that area, or
 - (b) in any other case—the area within 16 kilometres of the original shop.

- (3) For the purposes of removal of doubt, it is declared that a change in the trading name under which a pharmacy business is carried on (whether or not the change occurred before, or occurs after, the commencement of the *Pharmacy (General) Amendment (Exceptions) Regulation 2002*) does not constitute a change in the identity of a pharmacy business and is not relevant in determining whether a pharmacy business is the same pharmacy business as existed immediately before 5 October 1990.
- (4) For the purposes of removal of doubt, it is declared that it does not matter for the purposes of this clause that any relocation of a pharmacy business after 5 October 1990 and before the commencement of the *Pharmacy (General) Amendment (Exceptions) Regulation 2002* occurred with or without the approval of the Minister.
- (5) This clause does not apply to a person whose name has been removed from the Register or who is suspended from practising as a pharmacist.