



ST HELENA

A BILL

FOR

AN ORDINANCE

to amend the Medical Practitioners Ordinance, 1910, the Pharmacy and Poisons Ordinance, 1937, and the Dentists Ordinance, 1955, to further regulate the qualification to practice medicine, dentistry and pharmacy on St Helena; and to repeal related subsidiary legislation issued under those Ordinances.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Short title

1. This Ordinance may be cited as the Medical, Dentistry and Pharmacy (Amendment) Ordinance, 2019.

Medical practitioners

2. (1) Section 2 of the Medical Practitioners Ordinance, 1910, other than the heading, is repealed and the following is substituted:

“The Governor, on the recommendation of the Director of Health following the examination of submitted qualifications and evidence of good standing with previous licensing authority, may appoint a person who possesses appropriate qualifications for the practice of medicine and surgery, to practise medicine and surgery in St Helena.”.

(2) Section 3 of the Medical Practitioners Ordinance, 1910, other than the heading, is repealed and the following is substituted:

“3. A person who practises medicine or surgery in St Helena without being appointed under section 2 commits an offence.
Penalty: A fine of £10,000 or imprisonment for 6 months, or both.”.

(3) Section 4(1) of the Medical Practitioners Ordinance, 1910, is repealed and the following is substituted:

“(1) If the Governor is satisfied that a person who possesses appropriate qualifications for the practice of medicine and surgery, has contravened section 3 either inadvertently or at the request of Director of Health, or of any person acting

for the Director of Health, the Governor may issue a certificate of indemnity in respect of the contravention.”.

Pharmacists

3. (1) Section 3 of the Pharmacy and Poisons Ordinance, 1937, other than the heading, is repealed and the following is substituted:

“**3. (1)** The Governor, on the recommendation of the Director of Health following the examination of submitted qualifications and evidence of good standing with previous licensing authority, may appoint a person who possesses appropriate qualifications for the practice of pharmacy, to practise pharmacy in St Helena.

(2) A person may not carry on the business of a pharmacist unless the person holds a licence which the Director of Health is hereby empowered to issue for that purpose, if the Director of Health is satisfied that the person possesses appropriate qualifications for the practice of pharmacy.

(3) A person who—
(a) practises pharmacy in St Helena without being appointed under subsection (1); or
(b) carries on the business of a pharmacist in contravention of subsection (2), commits an offence.

Penalty: A fine of £10,000 or imprisonment for 6 months, or both.”;

(2) Section 4 of the Pharmacy and Poisons Ordinance, 1937, is repealed

(3) Section 11 of the Pharmacy and Poisons Ordinance, 1937, is amended by repealing subsections (1) and (1A) and substituting the following:

“**(1)** The Director of Health must keep for the purpose of this Part a list of persons who, not being authorised to sell poisons included in Part A of the Poisons List, are, subject to this Ordinance, authorised to sell poisons included in Part B of the Poisons List and must, subject as hereinafter provided, enter in the list the name of any person who makes an application in the form prescribed by rules to have his or her name entered in the list as a person authorised to sell such poisons on those premises.

(1A) The Director of Health may refuse to enter in, or may remove from, the list required by subsection (1) the name of any person who fails to pay the fees prescribed by rules or who in the opinion of the Director of Health or in delegation to the Senior Medical Officer is, for any sufficient reason relating either to him or her personally or to his or her premises, not fit to be on the list.”;

(4) Section 14 of the Pharmacy and Poisons Ordinance, 1937, is amended—
(a) by deleting the amount “£50” in subsections (2) and (3) and substituting “£10,000” therefor;
(b) by deleting the amount “£10” in subsection (3) and substituting “£1,000” therefor;
(c) by deleting the amount “£5” in subsection (4) and substituting “£10,000” therefor.

(5) The following section is inserted in the Pharmacy and Poisons Ordinance, 1937, after section 14:

“Certificate of indemnity

15. (1) If the Governor is satisfied that a person who possesses appropriate qualifications for the practice of pharmacy has contravened section 3(3)(a) either inadvertently, or at the request of Director of Health, or of any person acting for the Director of Health, the Governor may issue a certificate of indemnity in respect of the contravention.

(2) A person to whom a certificate referred to in subsection (1) has been issued is not liable for any penalty under this Ordinance, nor to any civil action to which the person would not be liable if he or she possessed the qualifications prescribed by this Ordinance.”

Dental practitioners

4. (1) Section 3 of the Dentists Ordinance, 1955, is amended by repealing subsection (2) and substituting the following:

“(2) The Dental Board consists of—
(a) Director of Health (Chief Medical Officer);
(b) the Senior Medical Officer;
(c) the Lead Dental Officer;
(d) the Clinical Governance Officer; and
(e) one other member to be appointed by the Governor.”

(2) Section 4 of the Dentists Ordinance, 1955, other than the heading, is repealed and the following is substituted:

“4. The Governor, on the recommendation of the Director of Health or in delegation to the Senior Medical Officer or Lead Dental officer following the examination of submitted qualifications and evidence of good standing with previous licensing authority, may appoint a person who possesses appropriate qualifications for the practice of dentistry, to practise dentistry in St Helena.”

(3) Section 5 of the Dentists Ordinance, 1955, other than the heading, is repealed and the following is substituted:

“5. A person who practises dentistry in St Helena without being appointed under section 4 commits an offence.

Penalty: A fine of £10,000 or imprisonment for 6 months, or both.”

(4) The following section is inserted in the Dentists Ordinance, 1955, after section 5:

“Certificate of indemnity

5A. (1) If the Governor is satisfied that a person who possesses appropriate qualifications for the practice of dentistry has contravened section 5 either inadvertently, or at the request of the Director of Health, or of any designated medical or dental personnel acting for the Director, the Governor may issue a certificate of indemnity in respect of the contravention.

(2) A person to whom a certificate referred to in subsection (1) has been issued is not liable for any penalty under this Ordinance, nor to any civil action to which the person would not be liable if he or she possessed the qualifications prescribed by this Ordinance.”.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

This Ordinance amends the requirements in the Medical Practitioners Ordinance, 1910, the Pharmacy and Poisons Ordinance, 1937, and the Dentists Ordinance, 1955, relating to the qualification to practise medicine, pharmacy and dentistry in St Helena. Currently, the Governor is required to publish a notice in the gazette approving a person as being qualified to practice which is based on a list of approved countries contained in the respective Regulations. Each time a person who is qualified to practice in an unlisted country is appointed, the Regulations need to be amended to add the relevant country. Before the appointment of any doctor, dentist or pharmacist, their qualifications are scrutinised and if the Director of Health is of the opinion that they have the appropriate qualifications to practice medicine, dentistry or pharmacy, the Director of Health will make a recommendation to the Governor for the appointment. Due to the onerous process of adding these countries, it is proposed that the country lists in the Regulations be removed.

The Medical Practitioners Ordinance, 1910, also currently makes provision for a certificate of indemnity where a medical practitioner who holds the appropriate qualification but who does not possess a qualification from a listed country practices medicine in St Helena, either inadvertently or at the request of the Senior Medical Officer. This could happen, for example, where a tourist who happens to be a doctor assists in some medical emergency while visiting St Helena. This certificate ensures that the doctor does not contravene the Ordinance thus becoming liable for penalties. It is proposed that similar provision be made for dentists and pharmacists.