

(4 August 2023 - to date)

PHARMACY ACT 53 OF 1974

Government Notice 1871 in Government Gazette 4442, dated 16 October 1974.

Commencement date: 21 February 1975. [Proc. R52, Gazette No. 4594, dated 21 February 1975].

REGULATIONS RELATING TO THE ELECTION OF MEMBERS OF THE SOUTH AFRICAN PHARMACY COUNCIL

Government Notice R823 in Government Gazette 18978, dated 19 June 1998.

Commencement date: 19 June 1998.

as amended by:

*Government Notice 3758 in Government Gazette 49079 dated 4 August 2023. Commencement date:
4 August 2023.*

The Minister of Health had, in terms of section 49(1)(n) of the Pharmacy Act, 1974 (Act No. 53 of 1974), in consultation with the Interim Pharmacy Council of South Africa, made the regulations in the Schedule.

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Prepared by:

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SCHEDULE

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates-

“electronic” means any form of electronic technology that generates, stores, and processes data;

(Definition of “electronic” inserted by regulation 2(a) of GN 3758 dated 4 August 2023)

“electronic voting” means voting that uses electronic means to manage casting and counting ballots;

(Definition of “electronic voting” inserted by regulation 2(a) of GN 3758 dated 4 August 2023)

“pharmacist eligible to vote” means a registered pharmacist who is entitled to elect any member of the council in terms of section 5(1)(a) of the Act;

“returning officer” means the person referred to in regulation 2(1);

“signature” means inputting a signature or name or initials, including an electronic image of a signature or electronic signature appended by way of inserting a relevant code, password or personal identification number, including but not limited to, a one-time-pin (OTP), and sign shall bear the same meaning;

(Definition of “signature” inserted by regulation 2(b) of GN 3758 dated 4 August 2023)

“the Act” means the Pharmacy Act, 1974 (Act No. 53 of 1974).

2. Returning officer and other officers

- (1) The registrar shall be the returning officer for all elections.
- (2) The returning officer may appoint such other officers as he or she may deem necessary.
- (3) The council shall appoint an independent monitoring body to monitor the election process and to ensure that the elections are free and fair.
- (4) The returning officer, the officers appointed by him or her and the members of the body contemplated in sub-regulation (3) shall make a declaration on oath or affirmation in a form as determined by the returning officer.

(Regulation 2(4) substituted by regulation 3 of GN 3758 dated 4 August 2023)

3. Notice of election

- (1) At least four months prior to the date determined by the Minister in terms of section 52(2) of the Act or the date of expiry of the term of office of the members of the council, the returning officer shall publish a notice of election in the *Gazette*.

(Regulation 3(1) amended by regulation 4 of GN 3758 dated 4 August 2023)

- (2) If a member vacates his or her office prior to the expiry of his or her term of office, the notice referred to in subregulation (1) shall, where practicable, be published in the first available *Gazette* after the date on which such member vacated his or her office.
- (3) The returning officer shall allow a period of not less than one month from the date of publication of a notice for the lodging of nominations.

4. Nominations

- (1) Each candidate shall be nominated on a nomination form, as determined by council, and nominations must reach the returning officer not later than the time and date determined by the returning officer in that form.

(Regulation 4(1) substituted by regulation 5(a) of GN 3758 dated 4 August 2023)

- (2) A separate nomination shall be lodged in respect of each candidate and shall be signed by two pharmacists eligible to vote.
- (3)
 - (a) A pharmacist eligible to vote may sign any number of nominations not exceeding the number of members to be elected.
 - (b) A nomination signed by a pharmacist eligible to vote who has already signed the maximum number of nominations shall be invalid.
 - (c) If the number of nominations signed by a pharmacist eligible to vote exceeds the number of members to be elected and such nominations are received simultaneously by the returning officer, or if such nominations together with nominations previously signed and lodged exceed the maximum number of nominations, such nominations shall all be invalid.
- (4) Simultaneously with the lodging of a nomination, or not later than the time and date contemplated in regulation (1), a candidate shall lodge the following documentation with the returning officer:
 - (a) His or her consent to the nomination;
 - (b) proof, to the satisfaction of the returning officer, of South African citizenship;

(c) a *curriculum vitae* of not more than 400 words in English; and

(d) an electronic, head and shoulders passport photograph.

(Regulation 4(4) substituted by regulation 5(b) of GN 3758 dated 4 August 2023)

(5)

(a) A validly nominated candidate may withdraw his or her consent to nomination by lodging a written notice with the returning officer before the date of publication of the list of candidates in the *Gazette*, upon which the nomination shall lapse.

(b) After publication of the list of candidates in the *Gazette*, no withdrawal of a nomination shall be effected: Provided that if a candidate who wishes to withdraw is elected, he or she may immediately resign as a member of the council.

(c) If a validly nominated candidate dies before the date of publication of the list of candidates in the *Gazette*, his or her nomination shall lapse, provided the returning officer is satisfied of the fact of the death of the candidate.

(Regulation 4(5)(c) substituted by regulation 5(c) of GN 3758 dated 4 August 2023)

5. Declaration of nominees to be elected members

If, at the time and on the date contemplated in regulation 4(1), the number of validly nominated candidates does not exceed the number of members to be elected, the returning officer shall declare such candidates to be elected members of the council.

5A. Election of Council members

The election of council members in terms of the Pharmacy Act, 53 of 1974 shall be conducted by way of an electronic election system or any other form of election system as determined by council as published by way of notice.

(Regulation 5A inserted by regulation 6 of GN 3758 dated 4 August 2023)

6. Procedure for election

(1) If, at the time and date contemplated in regulation 4(1), the number of validly nominated candidates exceeds the number of members to be elected—

(a) the returning officer shall, by notice in the *Gazette*, and on the official website of council —

(i) list the names of the validly nominated candidates in alphabetical order;

- (ii) determine a time and date, not earlier than one month after the date of publication of such notice, by which each pharmacist eligible to vote shall be entitled to lodge a ballot;
- (b) the returning officer shall, at least one month before the date contemplated in sub-regulation (1)(a)(ii), transmit the following to the registered electronic contact details of each pharmacist eligible to vote whose name appeared in the register at the time and on the date contemplated in regulation 4(1):
 - (i) a list of nominated candidates;
 - (ii) a secured mechanism as determined by council to cast his or her ballot; and
 - (iii) the *curricula vitae* and photographs referred to in regulation 4(4)(c) and (d).
- (2) Nothing contained in this regulation shall preclude the council from providing access to the electronic election system to pharmacists in terms of an electronic management approach, provided such access shall include an authentication process for persons who wish to cast their vote.

(Regulation 6 substituted by regulation 7 of GN 3758 dated 4 August 2023)

7.

(Regulation 7 repealed by regulation 8 of GN 3758 dated 4 August 2023)

8. Voting, counting of, and announcement of results

- (1) The returning officer shall determine a place, time and date for the commencement of voting, which duration for voting shall be no more than 72 hours.
- (2) Within five (5) days of the close of the voting, the independent monitoring body as appointed in terms of regulation 2(3), shall provide a validation report of the election results to the returning officer, which report shall be made available to all candidates.
- (3) Within one (1) day after the release of the validation report in terms of sub-regulation 8(2) the returning officer shall announce the results of the election.
- (4) The returning officer shall declare the candidates for whom the greatest number of votes have been cast to be elected members of the council: provided that, if the number of votes cast for any two or more candidates is found to be equal and if this equality of votes affects the result of the election, the returning officer shall, in the presence of the independent monitoring body, immediately determine by lot which candidate shall be declared elected.

(5)

- (a) Any pharmacist may lodge with the returning officer a substantiated, written objection regarding the election process with the returning officer.
- (b) If an objection referred to in paragraph (a) is not resolved before the next phase of the electoral process, the next phase shall not commence until an independent arbitrator has resolved the issue.
- (c) When an objection is lodged during the counting process, all counting shall be discontinued immediately until the objection is resolved.
- (d) If an objection referred to in paragraph (c) is not resolved within one (1) day of it being declared, an independent arbitrator shall be called to resolve the issue.

(Regulation 8 substituted by regulation 9 of GN 3758 dated 4 August 2023)

8A. Offence

Any person who wilfully interrupts, obstructs or disturbs the proceedings of the elections shall be guilty of an offence and, on conviction, be liable to a fine not exceeding R2 000 or imprisonment for a period not exceeding two years.

(Regulation 8A inserted by regulation 10 of GN 3758 dated 4 August 2023)

9.

- (1) The returning officer shall-

- (a) as soon as possible after the date and time determined in terms of regulation 6(1)(a)(ii), and in the presence of the monitoring body referred to in regulation 2(3), open the identification envelopes which conform with these regulation and place the folded ballot papers into a closed ballot box which has an aperture for inserting the ballot papers.
- (b) on the date and time determined in regulation 8(1), or as soon as possible thereafter, and in conjunction with the monitoring body referred to in regulation 2(3), open the ballot box, unfold and scrutinize the ballot papers for correctness and validity and then ascertain the number of valid votes recorded for each candidate.
- (c) declare the candidates for whom the greatest number of votes have been cast to be elected members of the council: Provided that if the number of votes cast for any two or more candidates is found to be equal and if this equality of votes affects the result of the election, the returning officer shall, in the presence of the candidates or their representatives, but in any case in the presence of at least two persons, immediately determine by lot which candidate shall be declared elected.

- (2) The returning officer shall keep all election records in safe custody.

Prepared by:

(Regulation 9(2) substituted by regulation 11 of GN 3758 dated 4 August 2023)

10.

(Regulation 10 repealed by regulation 12 of GN 3758 dated 4 August 2023)

11. Secrecy of voting

- (1) Any person referred to in regulation 8(3) must maintain the secrecy of the voting and he or she shall not attempt to ascertain, or directly or indirectly aid in ascertaining, for which candidate any person has voted.
- (2) If a person who carries out his or her duties under the Act or who is part of the election process, obtains knowledge as to the candidate for whom any person has voted, he or she shall not, except in answer to a question lawfully put to him or her in the course of proceedings in a competent court of law, disclose such knowledge to any other person.

(Regulation 11(2) substituted by regulation 13 of GN 3758 dated 4 August 2023)

- (3) A person who contravenes any provision of this regulation shall be guilty of an offence and on conviction be liable to a fine not exceeding R500 or to imprisonment for a period not exceeding six months.

12. Custody of documents and inspection of documents

- (1) The returning officer shall retain all election records for a period of 5 years from the date of the declaration of the result of an election and he or she shall thereafter destroy the records, unless a competent court of law directs otherwise.

(Regulation 12(1) substituted by regulation 14 of GN 3758 dated 4 August 2023)

- (2) No person may inspect the election documents, except by order of a competent court of law or the South African Police Service during an investigation of a *[sic]* the possible institution of criminal proceedings under the Act or any other laws.

13. Penalties

Any person who—

- (a) induces or procures or attempts to induce or procure any other person to become a candidate or to withdraw as a candidate in any election in consideration of payment or for consideration of any nature;
- (b) becomes a candidate or withdraws as a candidate in any election as a result of payment or consideration of any nature;

- (c) publishes a false statement of the withdrawal of a candidate in an election, knowing such statement to be false;
- (d)
- (e) without due authority supplies access to voting to any person;
- (f) withholds or attempts to withhold access to voting of any voter, or prevents or attempts to prevent any voter from obtaining access to voting;
- (g) with the intent to cheat, votes more than once at any election;
- (h)
- (i) induces or procures or attempts to induce or procure any other person to bring about, with the intent to cheat, the issuing of access to voting in terms of regulation 6(1);
- (j) interferes with or attempts to interfere with a voter when that voter is marking a vote, or otherwise attempts to obtain information as to the candidate for whom any voter is about to vote or has voted;
- (k) directly or indirectly, personally or through any other person—
 - (i) makes use or threatens to make use of any force or violence against;
 - (ii) inflicts or threatens to inflict any physical or psychological harm upon; or
 - (iii) does or, threatens to do anything to the disadvantage of,

a person in order to induce or compel that person to vote or refrain from voting for a particular candidate or candidates, shall be guilty of an offence and on conviction to a fine of R2 000 or to imprisonment for a period not exceeding two years.

(Regulation 13 substituted by regulation 15 of GN 3758 dated 4 August 2023)

14.

(Regulation 14 repealed by regulation 16 of GN 3758 dated 4 August 2023)

ANNEXURE A

SOUTH AFRICAN PHARMACY COUNCIL

AFFIDAVIT

I,
declare that in this election of a member/members of the South African Pharmacy Council I shall comply with the provisions of regulation 11 of the regulations relating to the election of the council, which I have read and understand.

.....

Signature

I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration.

Sworn to/affirmed and signed before me at on
.....

.....

Commissioner of Oaths

Office held

ANNEXURE B

SOUTH AFRICAN PHARMACY COUNCIL

NOTICE OF ELECTION OF MEMBERS OF THE SOUTH AFRICAN PHARMACY COUNCIL

[SECTION 5 OF THE PHARMACY ACT, 1974 (ACT No. 53 OF 1974)]

1. In terms of the regulations relating to the election of members of the council, notice is hereby given that an election of members to serve on the council for the period..... to..... is about to be held.
2. Every registered pharmacist who is resident in the Republic is eligible for nomination.
3. Each candidate must be nominated on a separate nomination from *[sic]*, but any pharmacist eligible to vote in terms of these regulations may sign the nomination forms of any number of candidates not exceeding the total number of candidates to be elected.
4. Nomination forms will be supplied on request to any pharmacist eligible to vote in terms of these regulations. Each nomination must state the full names of the person nominated as they appear in the register of the council and must be signed by two pharmacists eligible to vote.
5. The person nominated must also sign the nomination form, confirming that he or she consents to be nominated. The address and qualification(s) of each signatory as they appear in the register of the council must also be stated on the nomination form.
6. If the pharmacist nominated is unable to sign the nomination form, he or she may inform the returning officer by letter or facsimile that he or she consents to be nominated.
7. Every completed nomination form must reach the undersigned at the address given below not later than (time and date).....
8. Every nomination form in respect of which any of these provisions has not been complied with, or which is not received by the aforesaid time and date at the address given below, will be invalid.
9. Simultaneously with the lodging of a nomination each candidate shall lodge with the returning officer-
 - (a) a *curriculum vitae* of not more than 150 words in one or not more than two official languages, including, where possible, a telephone number where the candidate may be reached; and
 - (b) a black and white passport photograph on the back of which the candidate's name and registration number are indicated.

Signature.....

.....

Names and surname of returning officer

Address

.....

.....

Date

Prepared by:

ANNEXURE C

SOUTH AFRICAN PHARMACY COUNCIL

**ELECTION OF A MEMBER OR MEMBERS OF THE SOUTH AFRICAN PHARMACY COUNCIL
NOMINATION FORM**

1. We, the undersigned, being registered pharmacists, hereby nominate (print the full names and surname of the candidate as they appear in the register).....
.....of (print the full address as it appears in the register)
..... a registered pharmacist,
registration number and who is a South African citizen and resident in the
Republic as a candidate for election as a member of the South African Pharmacy Council at the
forthcoming election.

.....
Signature of pharmacist (1)

Print full first names and surname as they appear in the register

Registration number as a pharmacist

Registered qualification(s)

Witnesses (at least two witnesses):

(1) Signature
Names and surname

(2) Signature
Names and surname

(3) Signature.....
Names and surname

.....
Signature of pharmacist (2)

Print full first names and surname as they appear in the register

Registration number as a pharmacist

Registered qualification(s)

Witnesses (at least two witnesses):

(1) Signature
Names and surname

(2) Signature
Names and surname

(3) Signature.....
Names and surname

2. I, the undersigned, (print the full names and surname as they appear in the register)
..... declare that I am a South
African citizen and resident in the Republic at (print full address as it appears in the register)
.....
and that I hereby consent to be nominated as candidate for election as a member of the South African
Pharmacy Council.

.....
Signature of pharmacist
Registration number as a pharmacist
Registered qualification(s)
Witnesses (at least one witness)

(1) Signature
Names and surname

(2) Signature
Names and surname

3. Simultaneously with the lodging of a nomination each candidate shall lodge with the returning officer-

(a) a *curriculum vitae* of not more than 150 words in one or not more than two official languages, including, where possible, a telephone number where the candidate may be reached; and

(b) a black and white passport photograph on the back of which the candidate's name and registration number are indicated.

4. Each nomination shall be lodged with the returning officer by mail, facsimilee [*sic*] or by hand and the address given below not later than (time and date)
.....

5. A nomination which does not comply with the above requirements or which has not been lodged with the returning officer at the address stated below by the said time and date shall be invalid.

.....
Returning officer

Address

.....

.....

Date

ANNEXURE D

SOUTH AFRICAN PHARMACY COUNCIL

ELECTION OF A MEMBER OR MEMBERS OF THE SOUTH AFRICAN PHARMACY COUNCIL

BALLOT PAPER

Official mark of returning officer

Election of (number).....(member/members).

Column for voter's mark (X)	Names of candidates in alphabetical order	Registered address	Registered qualifications

INSTRUCTIONS TO VOTERS

Each voter shall be entitled to vote for not more than candidates and shall vote by placing a mark (X) opposite the name of each candidate for whom he or she wishes to vote.

A ballot paper shall be rejected by the returning officer if-

- (a) it does not bear the official mark of the returning officer;
- (b) the declaration on the identification envelope is not in order;
- (c) it is not lodged in the identification envelope;
- (d) it is not marked or does not clearly indicate which candidate(s) have been voted for;
- (e) it contains votes for more candidates than there are members to be elected or a voter votes more than once for the same candidate;
- (f) it bears any mark by which a voter may be identified;
- (g) an identification envelope contains more than one ballot paper.

This ballot paper shall be folded face inwards and placed in the accompanying identification envelope, which shall be sealed and then placed in a cover envelope which must be sealed and sent to the returning officer at (address)
..... so as to reach the returning officer not later than (time)
.....on the day of (month and year)

ANNEXURE E

SOUTH AFRICAN PHARMACY COUNCIL

FORM OF DECLARATION ON IDENTIFICATION ENVELOPE

I (print full names and surname as they appear in the register).....
.....of (print address as it appears in the register)
.....
.....declare that-

- (a) the enclosed ballot paper was issued to me;
- (b) my registration number as pharmacist is ; and
- (c) I have not returned any other ballot paper in this election.

.....
Signature

Witnesses (at least one witness):

- (1) Signature
Names and surname
- (2) Signature
Names and surname

Note: Only this ballot paper may be inserted in the identification envelope.

N. C. D. ZUMA
Minister of Health