



**South African
Pharmacy Council**

Regulations relating to the election of members of the South African Pharmacy Council

**As amended by
(GNR.823 of 19 June 1998)
(GNR. 3758 of 4 August 2023)**

DEPARTMENT OF HEALTH

The Minister of Health had, in terms of section 49(1)(a) and (3) read together with section 5 of the Pharmacy Act, 1974 (Act No. 53 of 1974), in consultation with the Pharmacy Council of South Africa, made the regulations in the Schedule.

Minister of Health

SCHEDULE

ARRANGEMENT OF REGULATIONS

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

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

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

"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"

"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.

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 *Government Gazette*.
- (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 sub-regulation (1) shall, where practicable, be published in the first available *Government 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.
- (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 4(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.
 - (d) An electronic, head and shoulders passport photograph.
- (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 the 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.

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.

6. Procedure for the 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 the 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 secure 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 such include an authentication process for person who wish to cast their vote.

7. Regulation is 7 is repealed

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 all to 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 1 day of it being declared, an independent arbitrator shall be called to resolve the issue.

8A. Offence

Any person who willfully 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.

9. Safe keeping of Records

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

10. Regulation 10 is repealed.

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.
- (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 and inspection of records.—

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

14. Regulation 14 is repealed