

A BILL

intituled

An Act to amend the Medicines (Advertisement and Sale) Act 1956.

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BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Medicines (Advertisement and Sale) (Amendment) Act 1990. Short title.

2. Section 2 of the Medicines (Advertisement and Sale) Act 1956, which in this Act is referred to as the "principal Act", is amended— Amendment of section 2. Act 290.

(a) by inserting after the word "circular," in the definition of "advertisement" the words "report, commentary,";

(b) by deleting the word "registered" in the definition of "authorized officer"; and

(c) by inserting after the definition of "Poisons List" the following definition:

* "private hospital" means a hospital registered under the Private Hospitals Act 1971;'. Act 43.

3. Section 3 of the principal Act is amended, in subsection (1)— Amendment of section 3.

(a) by inserting after the words "as a medicine" the words ", an appliance or a remedy"; and

(b) by substituting for the colon at the end of paragraph (c) a semicolon and by inserting after that paragraph the following paragraph:

"(d) diagnosis of a disease as specified in the Schedule:".

Amend-
ment of
section 4A.

4. Section 4A of the principal Act is amended by substituting therefor the following section:

"Prohibi-
tion of
advertise-
ments
relating
to skill or
service.

4A. Subject to this Act, no person shall take part in the publication of any advertisement—

(a) which refers to any skill or service relating to the treatment, prevention or diagnosis of any ailment, disease, injury, infirmity or condition affecting the human body; and

(b) which is capable of inducing, or which contains an invitation, whether express or implied, to, any person to seek the advice of the advertiser or any person referred to in the advertisement in connection with such skill or service:

Provided that this section shall not apply to any advertisement published—

(aa) with the approval of the Minister, by any professional body related to the medical profession or to any other allied profession which is established by or registered under any written law; or

(bb) with the approval of the Medicine Advertisements Board established by the Minister, by any private hospital or by any—

(i) private clinic;

(ii) private radiological clinic;

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(iii) private medical laboratory,
operated by a registered medical
practitioner having a valid annual
practising certificate under the
Act 50. Medical Act 1971."

5. Section 4B of the principal Act is amended, in subsection (1)— Amend-
ment of
section 4B.

- (a) by inserting after the words "as a medicine" the words ", an appliance or a remedy"; and
- (b) by deleting the words "established for this purpose by the Minister".

6. Section 6A of the principal Act is amended by deleting the word "registered". Amend-
ment of
section 6A.

7. Section 6s of the principal Act is amended by numbering the existing section as subsection (1) of section 6B and by inserting thereafter the following subsections: Amend-
ment of
section 6B

"(2) An authorized officer making an investigation under this Act may by order in writing require the attendance before himself of any person who from information given or otherwise appears to be acquainted with the circumstances of the case, and such person shall attend as so required:

Provided that no person shall be required under this section to perform a journey of more than twelve kilometres from his usual place of abode exclusive of such portion of the journey as may be performed by train or motor car or other vehicle.

(3) If any person refuses to attend as so required by an order issued under subsection (2), the authorized officer who issued such order may report such refusal to a Magistrate who may thereupon in his discretion issue a warrant to secure the attendance of such person as required by such order."

Amend-
ment of
section 6B.

8. Section 6F of the principal Act is amended in subsection (2) by substituting for the words "registered pharmacist in the public service authorized in writing by the Public Prosecutor" the words "authorized officer".

Amend-
ment of
section 7.

9. Section 7 of the principal Act is amended—

(a) in paragraph (a), by inserting after the words "purpose of the words "section 4A and"; and

(b) in paragraph (b), by inserting after the words "approval under" the words "section 4A and".

EXPLANATORY STATEMENT

This Bill seeks to amend the Medicines (Advertisement and Sale) Act 1956 (after this referred to as the "Act").

2. Clause 2 seeks to amend section 2 of the Act to insert into the definition of "advertisement" the words "report, commentary" so as to make it clear that they are within the ambit of such definition.

This clause also seeks to amend the definition of "authorized officer" by deleting the word "registered" which qualifies "pharmacist" in that definition. The term "registered pharmacist" at the moment means a pharmacist registered under the Registration of Pharmacists Ordinance 1951, which is applicable only in West Malaysia. A pharmacist in the public service in Sabah or Sarawak therefore may not be appointed as an authorized officer under the Act. This amendment will remedy that situation.

3. Clause 3 seeks to amend section 3 of the Act so that the prohibition in that section does not only extend to advertisements calculated to lead to the use of any article as a medicine but also to advertisements calculated to lead to the use of any article as an appliance or remedy for, *inter alia*, the prevention or treatment of diseases.

Clause 3 also seeks to add a new paragraph (d) to subsection (1) of section 3 to prohibit advertisement calculated to lead to the use of any article for the purpose of diagnosing diseases specified in the Schedule to the Act.

4. Clause 4 seeks to amend section 4A of the Act to make the prohibition in that section clearer and to extend the prohibition to advertisements referring to any skill or service relating to the

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prevention and *diagnosis* of any ailment, disease, injury, infirmity or condition affecting the human body. At the moment it only extends to the *treatment* of such ailment, disease, injury, infirmity or condition. This would enable advertisements relating to radiological services and clinical analyses to be controlled.

This *clause* also seeks to allow hospitals registered under the Private Hospitals Act 1971 as well as private medical clinics, private radiological clinics and private medical laboratories to advertise their skills or services subject to certain conditions.

5. *Clause 7* seeks to amend section 6B of the Act to empower an authorized officer who is investigating the commission of an offence under this Act to order any person who appears to be acquainted with the circumstances of the case to attend before such officer for the purpose of an examination under the Act. The object of this amendment is to facilitate such investigation.

6- *Clause 8* seeks to amend subsection (2) of section 6F of the Act to enable any authorized officer to conduct prosecutions in respect of offences under the Act. At present only a registered pharmacist in the public service who is authorized in writing by the Public Prosecutor may conduct such prosecutions.

7. Other amendments are minor or consequential in nature only.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U²) 1318.]

