

No. IX.

An Act for regulating the Sale and Use of Poisons. [21st August, 1876.]

SALE AND USE OF
POISONS.

WHEREAS the unrestricted sale of Poisons often leads to fatal accidents and the commission of crime And whereas large quantities of Arsenic Strychnine and other poisons are used in the Colony for pastoral and agricultural purposes and fatal accidents occur by reason of the careless custody and use of such Poisons by the owners thereof or other persons in their employ And it is expedient for the safety of the public to regulate the sale of Poisons and to make provision for the exercise of proper precautions in the use of the same Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the "Sale and use of Poisons Act 1876."

2. Every person who shall sell any poison specified in the first part of Schedule A shall before the delivery thereof to the purchaser inquire his name place of abode and occupation and the purpose for which such poison is required or stated to be required and shall thereupon make a faithful entry of such sale specifying the poison and the quantity thereof and all such particulars so given by the purchaser together with the day of the month and year of such sale in a book to be kept by the vendor for that purpose in the form set forth in the Schedule F to this Act and every such entry shall be signed by the person making the same and also by the purchaser unless he shall declare himself unable to write (in which case the person making the entry shall add thereto the words "Purchaser cannot write") and whenever a witness to the sale is required by

Preamble.

Short title.

On sale of poison specified in the first part of Schedule A entry thereof to be made in a book.

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by this Act such entry shall be signed by such witness together with his place of abode. Provided that in cases where sales and purchases of poisons are made by correspondence the letter ordering the same shall be preserved by the vendor and a memorandum of the date of the said letter by whom it was written and the quantity and particulars of the poison therein ordered shall be entered in the said book and no person shall sell poison so ordered to any person with whose signature he is not acquainted unless such signature shall have been witnessed or purport to have been witnessed by a Justice Clergyman or public officer or be authenticated by some person known to the vendor.

Restrictions as to the sale of any poison specified in the first part of Schedule A.

3. No person shall sell any poison specified in the first part of Schedule A to any person who is under eighteen years of age or who is unknown to the vendor unless the sale be made in the presence of some witness who is known to the vendor and to whom the purchaser is known and which witness signs his name together with his place of abode to the required entry before the delivery of the poison to the purchaser.

Sales of poison for destruction of vermin to be made only to householders.

4. It shall not be lawful to buy or to sell any poison for the avowed purpose of destroying rats or other vermin infesting houses unless the purchaser be a householder.

Arsenic and strychnine must be coloured.

5. No person shall sell any arsenic or strychnine or any preparation of the same respectively unless in the case of arsenic and any uncoloured preparation of the same such poison shall be mixed before the sale or delivery thereof with soot or indigo in the proportion of one ounce of soot or half an ounce of indigo at the least to one pound of arsenic and so in proportion for any greater or less quantity. And in the case of strychnine or any uncoloured preparation of the same such poison shall be coloured with Armenian bole or other red colouring matter before the sale or delivery thereof. Provided always that whenever the purchaser states that such arsenic or strychnine or any preparation thereof respectively is required not for any pastoral or agricultural use but for some other purpose for which such admixture would according to the representation of the purchaser render it unfit such poison may be sold without the admixture hereinbefore specified.

Penalties for offences under this Act.

6. If any person shall sell any poison specified in the Schedule A to this Act unless as authorized herein—or if on any sale thereof he shall deliver the same without having made and signed the entry hereby required on such sale—or without having obtained such signature to such entry as required by this Act—or if any one purchasing such poison shall give false information in answer to inquiries to the person selling the same in relation to the particulars which he is by this Act authorized to inquire into of such purchaser—or if any one shall sign his name as a witness to the sale of any such poison to a person unknown to such witness every person so offending shall for every such offence upon summary conviction thereof before two Justices be liable to a penalty not exceeding twenty pounds.

Sales of any poison medicines or by wholesale dealers excepted.

7. This Act shall not extend to the sale of any poison when made up or compounded as a medicine according to the prescription of a medical practitioner or in the form of homœopathic medicine unless in the crude state mother tincture or of a greater strength than the third potency. Nor to the sale of patent medicines or of photographic materials for the purpose of photography. Nor to the sale of medicines dispensed by veterinary surgeons for animals under their treatment. Nor to the sale of fly poison papers or packets of poisonous mixtures for the destruction of vermin when duly marked as such. Nor shall it extend to any sales by wholesale dealers in the ordinary course of wholesale dealing if an order in writing signed by the purchaser shall be given for the supply of the same. Provided that all such sales be entered in a book and the packages of poisons be labelled as required by section seventeen.

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8. The several substances mentioned in Schedule A hereto shall be deemed poisons within the meaning of this Act. Provided always that the Governor with the advice of the Executive Council may by Proclamation duly published in the *Gazette* at any time declare that any other natural or chemical substance or preparation specified in such Proclamation shall be deemed a poison within the meaning of this Act.

Substances named in first Schedule to be deemed poisons.

9. The Governor with the advice of the Executive Council may appoint for the purposes of this Act a Board of Pharmacy to consist of the President of the New South Wales Medical Board the Medical Adviser to the Government and the Council of the Pharmaceutical Society of New South Wales.

The Governor may appoint a Board of Pharmacy.

10. After the time when this Act shall come into operation no person shall sell any poison unless he shall have received a certificate from the said Board that he is duly qualified to be a dealer in poisons and any person so selling without such certificate shall be liable to a penalty not exceeding fifty pounds.

Unqualified persons not allowed to sell poisons.

11. No person shall receive such certificate unless he shall prove to the satisfaction of the said Board that he has been duly admitted a Pharmaceutical Chemist by the Pharmaceutical Society of Great Britain or a Member or Licentiate of the Apothecaries Halls of London or Dublin—or has received a certificate as a legally qualified medical practitioner—or is entitled to be certified as such under the authority of the Acts passed in the second ninth and nineteenth years of the reign of Her present Majesty and numbered respectively twenty-two twelve and seventeen—or unless he be a person who shall at the time of the passing of this Act be carrying on business as a chemist and druggist in New South Wales—or unless he shall make a declaration accompanied by a certificate in the form in Schedule E that he has served as an apprentice or assistant to a chemist and druggist for not less than three years and during that period been actually engaged in the dispensing and compounding of medical prescriptions and been examined as hereinafter provided as to his skill and competency to conduct the business of chemist and druggist. Provided always that in places remote from large towns any person who shall produce a certificate according to Schedule D from a legally qualified medical practitioner and a police magistrate that he is a fit and proper person to be allowed to sell poisons in such place shall receive a certificate as a “dealer in poisons.”

Certificate of qualification.

12. The several persons mentioned in the last section shall be entitled to be registered upon paying a fee of one pound for such registration. Provided however that any chemist and druggist claiming to be registered must send to the Secretary of the said Board (who shall also be the Registrar for the purposes of this Act) a claim in the form in Schedule C to this Act. Provided also that for any such registration of a chemist and druggist unless it be so claimed by him within three months after the passing of this Act he shall pay for registration the said fee of one pound.

Such persons to be registered by the Board of Pharmacy.

13. The said Board shall without any unnecessary delay make regulations for keeping up the “Register of Chemists and Druggists” which shall be alphabetically arranged in accordance with the form in Schedule B hereto and shall be kept by their Secretary and for appointing the fees to be charged for the examination of assistants and apprentices to chemists and druggists—and the mode of conducting the same—and before whom—and the subjects for examination (which shall not extend beyond matters immediately connected with the business of a chemist and druggist)—and for the registration of chemists and druggists and of any other certified dealers in poisons—all which regulations shall be submitted to the Governor and Executive Council for approval or alteration and shall when confirmed be published in the *Gazette*.

The Board of Pharmacy to keep a register &c.

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Deaths of chemists and druggists to be noted in register.

14. Every Registrar of Deaths on receiving notice of the death of any chemist and druggist shall forthwith transmit by post to the Secretary of the said Board a certificate under the hand of such Registrar of such death stating the time and place of death for which certificate he shall be entitled to demand and receive from the said Secretary a fee of two shillings and sixpence and on the receipt of such certificate the said Secretary shall erase the name of the deceased from the register.

Names of qualified persons only to be entered in register.

15. No name shall be entered in the register except of persons authorized by this Act to be registered nor unless the Secretary and Registrar shall be satisfied by the proper evidence that the person claiming is entitled to be registered and any appeal from the decision of the Registrar may be decided by the said Board and any entry which may be proved to the satisfaction of the said Board to have been fraudulently or incorrectly made may be erased from or amended in the register by the order in writing of such Board.

Register to be published annually and to be evidence.

16. The Secretary and Registrar of the said Board shall in the month of January in every year cause to be printed and published a copy of the said register showing the names and residences of all persons registered as chemists and druggists under this Act on the thirty-first day of December last preceding which shall be certified by him to be a true copy of the original register (the names of deceased persons being omitted) And every such printed copy or any certificate under the hand of the said Secretary and Registrar shall be *prima facie* evidence in all Courts of Justice that the persons or person therein specified respectively are duly registered under this Act And the absence of any person's name in the said printed copy of the said register shall be *prima facie* evidence that such person is not duly registered under this Act.

Wilful falsification of register &c. an offence.

17. If the Secretary and Registrar aforesaid shall wilfully make any false entry in the said register or if any person shall cause himself to be fraudulently registered therein by making any false representation or producing any forged certificate to the Secretary and Registrar the offender shall be deemed guilty of misdemeanor and shall be liable on conviction thereof to be fined and imprisoned for any term not exceeding twelve months.

Rules to be observed in the sale of poison.

18. It shall not be lawful to sell any poison specified in Schedule A hereto or which may hereafter be declared as hereinbefore provided such either by wholesale or retail unless the bottle or other vessel wrapper or cover box or case immediately containing the same bears thereon the word "Poison" printed conspicuously together with the name of the article and the name and address of the seller thereof.

Persons selling contrary to act liable to a penalty of £20.

19. Any person selling any poison otherwise than is herein provided shall upon summary conviction thereof before any two Justices be liable to a penalty not exceeding twenty pounds And for the purposes of this section the person on whose behalf any such sale is made by any apprentice or servant shall be deemed to be the seller Provided always that such apprentice or servant shall be liable to a like penalty.

Governor in Council may direct the names of unfit persons to be erased from the register.

20. The Governor with the advice of the Executive Council may direct the name of any person who is convicted of any offence against this Act which in their opinion renders him unfit or who shall be deemed by them unfit through habitual intoxication or otherwise to be on the register under this Act to be erased from the same and the Secretary and Registrar shall erase his name accordingly.

The Governor in Council may make Regulations for sale of poisons.

21. The Governor with the advice of the Executive Council may from time to time make any further regulations as to the colouring of any poisons—or the sale or custody of the same—or for the registration of persons claiming to be registered as chemists and druggists (in the

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the event of sufficient regulations in that behalf not being made by the said Board)—or otherwise carrying into effect the objects of this Act—which after publication in the *Gazette* shall have the same force and validity as if the same formed part of this Act. Provided that a copy of the same shall be laid before both Houses of Parliament without unnecessary delay.

22. It shall not be lawful for the owner or other person in charge or possession of any poison to leave it in any place (whether the same be ordinarily accessible to others or not) unless the bottle or package of whatever kind in which such poison may be contained shall be marked as “Poison” and be otherwise duly labelled in the manner provided by section eighteen. And any person so offending shall be liable on summary conviction thereof before any two Justices to a penalty not exceeding twenty pounds.

Owners of poisons not to leave them about unlabelled under a penalty.

23. Any person feeling himself aggrieved by any conviction or penalty imposed under the authority of this Act where the penalty exceeds five pounds may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose unless such Quarter Sessions shall be held within fourteen days from the date of such conviction or judgment and in that case to the Court of Quarter Sessions then next following. And such Court shall have power to hear and determine the matter in a summary way and shall have and exercise all other powers vested in them by the third section of the Act fifth William the Fourth number twenty-two and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal. Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal and stating the grounds thereof to any one of the convicting Justices and to the person who prosecuted the matter before the Justices in Petty Sessions. And provided also that the person appealing (in case a penalty shall have been awarded against him) shall pay into the hands of the convicting Justices the full amount thereof together with the costs awarded within one week next after conviction and shall within the same period enter into a bond with two sureties approved by such Justices conditioned to prosecute such appeal with effect and to abide the event of such appeal and to pay the full amount of all such costs as may on such appeal be awarded against him.

Appeal allowed to Quarter Sessions.

24. This Act shall come into operation on the first day of October next excepting the several sections having reference to the appointment of the aforesaid Board and the several provisions connected therewith which shall come into operation on the passing thereof.

Commencement of Act.

SCHEDULES.

SCHEDULE A.

LIST of Poisons.

1ST PART.

Arsenic.
Prussic Acid.
Strychnine.
Savin and its Oil.
Ergot of Rye and its preparations.
Chloral Hydrate.
Laudanum.

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2ND PART.

Cyanides of Potassium and all metallic Cyanides.
 All poisonous vegetable Alkaloids and their Salts.
 Aconite and its preparations.
 Tartar Emetic.
 Corrosive Sublimate.
 Cantharides.
 Oxalic Acid.
 Chloroform.
 Belladonna and its preparations.
 Opium and all preparations of Opium or of Poppies other than Laudanum.
 Arsenical preparations except Green and other coloured Paints.

SCHEDULE B.

FORM of the Register of Chemists and Druggists.

Name.	Residence.	Qualification.
A.B.....	Albury	Kept a store for sale of poison prior to "Sale and use of Poisons Act 1876."
C.D.....	Sydney	Carried on business of chemist and druggist prior to "Sale and use of Poisons Act 1876."
E.F.....	Gundagai	Admitted a Pharmaceutical Chemist.

SCHEDULE C.

DECLARATION by a person who was in business as a Chemist and Druggist before the passing of this Act.

To the Secretary and Registrar of the Board of Pharmacy.

I residing at in the Colony of New South Wales hereby declare that I was in business as a Chemist and Druggist in the keeping of open shop for the compounding of Medical prescriptions before the passing of the "Sale and use of Poisons Act 1876."

Dated this day of 1876.

(Signature.)

SCHEDULE D.

CERTIFICATE to be signed by a legally qualified Medical Practitioner and a Police Magistrate.

To the Secretary and Registrar of the Board of Pharmacy.

I residing at in the Colony of New South Wales being a legally qualified medical practitioner and I a Police Magistrate hereby certify that now residing at in the Colony of New South Wales is in our opinion a fit and proper person to be allowed to sell poisons in that place.

SCHEDULE E.

DECLARATIONS to be signed by and on behalf of an Apprentice or assistant claiming to be registered.

To the Secretary and Registrar of the Board of Pharmacy.

I hereby declare that the undersigned residing at in the Colony of New South Wales has been for three years employed in dispensing and compounding prescriptions as an apprentice or assistant to Mr. of Chemist and Druggist and has attained the age of twenty-one years.

Dated this day of 1876.

(Signature)

A.B.

Registered Chemist and Druggist.

DECLARATION

Dedicated Crown Lands Resumption.

DECLARATION to be signed by the Applicant.

I HEREBY declare that I was an apprentice (*or* assistant) to _____ of _____
 in the Colony of New South Wales in the years _____ and _____ and was
 for three years actually engaged in dispensing and compounding prescriptions and that
 I have attained the age of twenty-one years.

Dated this _____ day of _____ 1876.

(Signature) J.H.

SCHEDULE F.

FORM of Entry in Book on Sale of Poison.

Day of sale.	Name of purchaser.	Place of abode.	Occupation.	Quantity and names of Poison.	Purpose for which it is required.	Purchaser's signature.	Witness.	Vendor's signature.
1 March 1876.	John Jones.	Bona Station Merool Creek.	Squatter	20lbs. arsenic 10ozs. strychnine	Sheep-dressing. Poisoning Native dogs.	John Jones ... (<i>or if the purchaser cannot write insert the words "Purchaser cannot write"</i>).	Henry Squires Farmer Merool	Richard Stiffener.