

POISONS ACT.

Act No. 54, 1952.

Elizabeth II, No. 54, 1952. An Act to regulate and control the sale and use of poisons, poisonous substances and preparations, and certain drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to amend the Pharmacy (Amendment) Act, 1940, and certain other Acts; to repeal the Poisons Act, 1902; and for purposes connected therewith. [Assented to, 4th December, 1952.]

BE

BE it enacted by the Queen's Most Excellent Majesty, No. 54, 1952.
by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:--

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Poisons Act, 1952." Short title, commencement, and division into Parts.

(2) (a) This Act shall commence upon such day or days as may be appointed and notified pursuant to paragraph (b) of this subsection.

(b) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint and notify different days for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

(3) This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—POISONS ADVISORY COMMITTEE AND
POISONS LIST—ss. 5-7.

PART III.—POISONS—ss. 8-21.

PART IV.—POISONOUS SUBSTANCES—ss. 22-25.

PART V.—RESTRICTED DRUGS—s. 26.

PART VI.—CYANIDE OF POTASSIUM—ss. 27-34.

PART VII.—GENERAL—ss. 35-48.

SCHEDULE.

2. (1) The enactments mentioned in the Schedule to Repeal and savings.
this Act are, to the extent therein expressed, hereby repealed.

(2)

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(2) All certificates granted under the proviso to subsection one of section five of the Poisons Act, 1902, and in force immediately before the commencement of this section shall be deemed to be licenses issued under section nine of this Act.

Definitions.
of Vict.
Act No.
3748, s. 3;
Vict. Act No
3918, s. 2.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

“Apprentice” means a person—

- (a) serving as an apprentice in the business of a pharmacist in New South Wales keeping open shop for the purpose of dispensing and compounding medical prescriptions;
- (b) serving as an apprentice to a pharmacist in charge of a dispensary of a friendly society;
- (c) serving as an apprentice to a pharmacist who is also a managing director or general manager of a company where such apprenticeship is being served in open shop kept by such company in New South Wales for the purpose of dispensing and compounding medical prescriptions; or
- (d) serving as an apprentice to a pharmacist in charge of a dispensary in an open shop kept by a company in New South Wales for the purpose of dispensing and compounding medicines.

“Assistant” means a person who having passed through a regular graded course in pharmacy of three years duration at the University of Sydney and having qualified at that University for a degree or diploma in pharmacy—

- (a) is serving as an assistant in the business of a pharmacist in New South Wales keeping open shop for the purpose of dispensing and compounding medical prescriptions;

(b)

- (b) is serving as an assistant to a pharmacist in charge of a dispensary of a friendly society; No. 54, 1939.
- (c) is serving as an assistant to a pharmacist who is also a managing director or general manager of a company where such assistantship is being served in open shop kept by such company in New South Wales for the purpose of dispensing and compounding medical prescriptions; or
- (d) is serving as an assistant to a pharmacist in charge of a dispensary in an open shop kept by a company in New South Wales for the purpose of dispensing and compounding medicines.

“Automatic machine” means any machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier or his employee or other agent at the time of the sale or supply.

“Board” means the Pharmacy Board of New South Wales.

“Committee” means the Poisons Advisory Committee.

“Container,” when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.

“Dentist” means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934-1946.

“Label” includes any tag, brand, mark or statement in writing on or attached to or used in connection with any container or package containing any poison or poisonous substance or preparation; and “labelled” has a corresponding interpretation.

“License”

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"License" means a valid and unexpired license or renewal of a license.

"Licensee" means the person named in the license.

"Medical practitioner" means a legally qualified medical practitioner.

"Package," when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.

"Pharmacist" means a person who is a registered pharmacist within the meaning of the Pharmacy Act, 1897-1952.

"Poison" means any substance included in Schedule One of the Poisons List.

"Poisonous substance" means any substance included in Schedule Two of the Poisons List.

"Poisons List" has the meaning assigned to it by subsection six of section five of this Act.

"Prescribed" means prescribed by this Act or by the regulations.

"Public institution" means—

(a) any Government Department, public hospital, the University of Sydney, or the New South Wales University of Technology; or

(b) any other institution or establishment which the Governor by order published in the Gazette declares to be a public institution for the purposes of this Act.

"Regulations" means regulations made under this Act.

"Restricted drug" means any substance included in Schedule Three of the Poisons List.

"Sell" includes sell whether by wholesale or retail and barter and exchange; and also includes dealing in, agreeing to sell, or offering or exposing for sale, or keeping or having in possession for sale,

sale, or sending, forwarding, delivering or receiving for sale or on sale, or authorising, directing, causing, suffering, permitting or attempting any of such acts or things; and "sale" and each of the other derivations of "sell" have corresponding interpretations. No. 54, 1952.

"Substance" includes preparation or admixture of any substance.

"Trade purposes" means the purposes of any prescribed profession, business, trade or industry but does not include resale.

"Veterinary surgeon" means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923-1952.

"Wholesale" means sale or supply for the purposes of resale.

"Wholesale dealing" means—

(a) sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or specifically authorised under this Act or the regulations to be in possession of or to sell poisons or poisonous substances or restricted drugs; and

(b) includes sale or supply to other persons in wholesale quantities in the ordinary course of wholesale dealing and for use in connection with any prescribed profession, business, trade or industry or any public institution but not for resale.

4. The Minister may from time to time, by order published in the Gazette, exempt—

(a) any Government Department;

(b) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts.

Exemption from operation of Act.

(c)

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- (c) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934-1951,

specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the Government Department, council or pastures protection board specified in the order

PART II.**POISONS ADVISORY COMMITTEE AND POISONS LIST.****DIVISION 1.—*Poisons Advisory Committee.*****Poisons
Advisory
Committee.**

5. (1) For the purposes of this Act there shall be a Poisons Advisory Committee which shall consist of fourteen members.

(2) The members of the Committee shall be—

- (a) the persons for the time being holding the offices of Director-General of Public Health, Senior Medical Officer of Health, Senior Analyst in the Department of Public Health and Chief Veterinary Surgeon in the Department of Agriculture; and
- (b) ten members appointed by the Governor (in this section referred to as "appointed members") of whom—
- (i) two shall be representatives of the University of Sydney;
 - (ii) one shall be a medical practitioner representing the British Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Board;
 - (iv) one shall be a representative of the Sydney Chamber of Commerce;
 - (v).

- (v) one shall be a representative of the Chamber of Manufactures of New South Wales; No. 54, 1952.
- (vi) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
- (vii) one shall be a representative of the Australian Dental Association, New South Wales Branch.
- (viii) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia, New South Wales Branch;
- (ix) one shall be a representative of The Country Traders' Association of N.S.W.

(3) The Director-General of Public Health shall be chairman of the Committee.

(4) The chairman shall preside at all meetings of the Committee at which he is present and in his absence the Senior Medical Officer of Health shall preside.

If the chairman and the Senior Medical Officer of Health are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

The chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5) (a) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

(b) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

(6) The appointed members of the Committee shall hold office for a period of three years and shall be eligible for reappointment.

(7)

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(7) If any casual vacancy occurs in the office of an appointed member of the Committee the Governor may appoint a person having the like qualification or being representative of the like interest as his predecessor, who shall hold office for the balance of his predecessor's term of office.

Where the vacancy is a vacancy in the office of the member referred to in subparagraph (vi) of paragraph (b) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

(8) The Governor may remove any appointed member for neglect of duty, incompetence, dishonourable conduct, or other cause deemed sufficient by the Governor.

(9) The appointed members of the Committee shall be paid such fees as may be determined by the Governor.

(10) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(11) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(12) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this section.

6. (1) The Committee may initiate and refer to the Minister—

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Functions
of Com-
mittee.

- (a) recommendations for making, altering or repealing any regulation under this Act;
- (b) recommendations for amending the Poisons List.

(2) In addition to the duty imposed upon the Committee by section seven of this Act it shall be the duty of the Committee to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—*Poisons List.*

7. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be included in the Poisons List to be established under this Act.

Poisons
List.
cf. 23 and
24 Geo. V,
c. 25,
s. 17.

(2) The list to be prepared and submitted to the Minister under this section shall contain three Schedules, namely, Schedule One, Schedule Two and Schedule Three.

Of the Schedules contained in such list—

- (a) Schedule One shall consist of such substances as the Committee, having regard to the provision made by this Act in relation to poisons included should be treated as poisons and be included in in Schedule One of the Poisons List, considers Schedule One of the Poisons List.
- (b) Schedule Two shall consist of such substances as the Committee, having regard to the provision made by this Act in relation to substances included in Schedule Two of the Poisons List, considers should be treated as poisonous substances and be included in Schedule Two of the Poisons List.

(c)

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- (c) Schedule Three shall consist of such substances as the Committee considers should be subject to regulations imposing special restrictions with respect to the sale thereof.

The Committee shall, having regard to the provision made by this Act in relation to poisons included in the first, second and third parts of Schedule One of the Poisons List, arrange the poisons included in Schedule One of such List in three separate groups under the headings "First Part", "Second Part" and "Third Part".

(3) The Minister shall, upon the submission to him of such list, forthwith take the same into consideration and may confirm it with or without modifications as he may think proper:

Provided that where the Minister proposes to confirm such list with modifications he shall inform the Committee of the proposed modifications and give to the Committee a reasonable opportunity of making any observations with respect thereto, and shall, before finally confirming the list, take into consideration any observations so made.

(4) The Governor may by proclamation proclaim the list as confirmed by the Minister under subsection three of this section.

(5) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection four of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by removing any substance from one Schedule and adding it to any other Schedule;
- (iii) by removing any substance from any part of Schedule One and adding it to any other part thereof.

Where any substance is added to Schedule One or removed from any other Schedule and added to Schedule One the proclamation shall specify the part of Schedule One to which the substance is added.

(b)

(b) Any recommendation made by the Minister to the Governor recommending any amendment of the list so proclaimed shall be made after consultation with or on the recommendation of the Committee. No. 54, 1952.

(6) The said list as in force for the time being is in this Act referred to as the "Poisons List".

(7) Any proclamation made under this section shall—

- (a) be published in the Gazette;
- (b) take effect from the date of proclamation or from a later date to be specified in the proclamation;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such proclamation has been laid before such House disallowing the proclamation or any part thereof, such proclamation or part shall thereupon cease to have effect.

PART III.

POISONS.

DIVISION 1.—*Sale of Poisons.*

8. Unless otherwise expressly provided, no person, other than a medical practitioner or a pharmacist, shall sell any poison unless he is licensed under section nine of this Act to sell poisons.

Unqualified persons not to sell poisons.
cf. Vict. Act No. 3748, s. 4.

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Licenses
to sell
poisons.

9. (1) The Board may issue a license to sell poisons to any person who—

- (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell poisons.

(2) Any application to the Board for a license or for the renewal of a license under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to such conditions as may be for the time being prescribed.

(b) A license under this section—

- (i) shall, subject to this Act, remain in force until the thirty-first day of January next following the date of issue;
- (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

How poisons
to be
kept.
cf. Vict. Act
No. 3748, s. 7.

10. Every person entitled to sell poisons shall keep all poisons included in the first part of Schedule One of the Poisons List and such other poisons as may be prescribed in such manner as may be prescribed.

How
containers
containing
poisons to
be marked.
cf. *Ibid.* s. 8.

11. No person shall sell any poison—

- (a) unless the container thereof bears thereon—
 - (i) in the case of any poison included in the first part or the second part of Schedule One of the Poisons List—the word “Poison”; or

(ii)

(ii) in the case of any poison included in the third part of that Schedule—the word “Caution” and such other words (if any) as are prescribed,

printed in such size type as may be prescribed together with the name of the article, the poison or poisons contained therein and the name and address of the seller thereof; and

(b) unless such other requirements as are prescribed are complied with.

12. (1) Every person who sells any poison included in the first part of Schedule One of the Poisons List shall, before 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.

Sale of certain poisons to be entered in a book.
cf. Act No. 65, 1902, s. 6;
Vict. Act No. 3748, s. 9.

(2) Such person 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 prescribed.

(3) Every such entry shall be signed by the person making the same, and shall, subject to sections thirteen and fourteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words “Purchaser cannot write”.

(4) Whenever a witness to the sale is required by this Act, such entry shall be signed by such witness, and shall also state his place of abode.

(5) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

13. (1) In cases where sales and purchases of poisons included in the first part of Schedule One of the Poisons List are made by correspondence, the letter ordering the same shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the said letter, by whom it was written, and

Sales by correspondence.
cf. Act No. 65, 1902, s. 7;
Vict. Act No. 3748, s. 9 (4).

No. 54, 1952. and the quantity and particulars of the poison therein ordered shall be entered in the book referred to in subsection two of section twelve of this Act.

(2) No person shall sell any such poison so ordered to any person with whose signature he is not acquainted unless such signature has been witnessed, or purports to have been witnessed, by a justice of the peace, clergyman, or public officer, or is authenticated by some person known to the vendor.

**Sales by
telegram
or radiogram.
cf. Vict. Act
No. 2748, s. 10.**

14. (1) In cases where sales and purchases of poisons included in the first part of Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering the same shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the poison therein ordered shall be entered in the book referred to in subsection two of section twelve of this Act.

(2) No person shall sell any such poison so ordered to any person who is unknown to the vendor.

**Modifica-
tion of
section 12.
cf. *Ibid.* s. 11.**

15. (1) So much of the provisions of section twelve of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not (if the conditions mentioned in this section are fulfilled) apply where—

- (a) the purchaser is a medical practitioner, dentist, veterinary surgeon, or an analyst appointed for the purposes of any Act; and
- (b) the purchase is made by him for the purpose of his profession.

(2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the poison to be purchased;

(b)

- (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist, veterinary surgeon, or an analyst appointed for the purposes of any Act; No. 54, 1952.
- (c) must if the poison sold is being sent by post to the purchaser register the same at the post office at which it is posted or cause it to be so registered;
- (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
- (e) preserve the order for a period of five years from the date on which the final entry in the book is made:

Provided that if a vendor is reasonably satisfied that such a purchaser desiring to purchase a poison urgently requires it for the purpose of his profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book the vendor may send the poison to the purchaser to be handed over to him either in exchange for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(3) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any poison under the proviso to subsection two of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

16. (1) No person shall sell any poison included in the first part of Schedule One of the Poisons List to any person who—

- (a) is under eighteen years of age; or

(b)

Restrictions
as to the
sale of
certain
poisons.
cf. Act No. 65,
1902, s. 8;
Vict. Act No.
3748, s. 12.

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- (b) is unknown to the vendor unless the sale is made in the presence of some witness who is known to the vendor and knows the purchaser.

(2) Such witness shall sign his name and add his place of abode to the required entry before the delivery of the poison to the purchaser.

Arsenic and strychnine.
cf. Act No. 65, 1902, s. 11, Vict. Act No. 3748, s. 13.

17. No person shall sell any arsenic or strychnine or any uncoloured preparation thereof unless such arsenic or strychnine or preparation is, before the sale or delivery thereof, coloured as prescribed:

Provided that whenever the purchaser states that such arsenic or strychnine or any preparation thereof respectively is required for some purpose for which the addition of colour admixture would, according to the representation of the purchaser, render it unfit, such poison may be sold without being coloured as aforesaid. The representation of the purchaser shall be added by the vendor to the required entry before delivery of the arsenic, strychnine or preparation to the purchaser.

Owners of poisons not to leave them unlabelled, etc.
cf. Act No. 65, 1902, s. 15; Vict. Act No. 3748, s. 14.

18. Every person being the owner or other person in charge or possession of any poison who leaves it in any place (whether the same is ordinarily accessible to others or not) unless the container of whatever kind in which such poison is contained—

- (a) is marked—
- (i) in the case of any poison included in the first part or the second part of Schedule One of the Poisons List—"Poison"; or
 - (ii) in the case of any poison included in the third part of that Schedule—"Caution", together with such other words (if any) as are prescribed;
- (b) in each case is otherwise duly labelled in the manner prescribed,

shall be guilty of an offence against this Act.

19. (1) The Governor, on the recommendation of the Committee, may make regulations not inconsistent with this Part, prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part.

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Regulations.

In particular, and without prejudice to the generality of the foregoing, regulations may be made with respect to—

- (a) the issue, renewal and cancellation of licenses under this Part;
- (b) the colouring of any poisons;
- (c) the conditions under which poisons shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept, or used;
- (d) the shape, size, colour and materials of the container or package in which any poison shall or shall not be sold;
- (e) requiring the package or container in which any prescribed poison is cased, covered, enclosed, contained or packed for sale (whether by wholesale or retail) to have printed thereon the name of some effective remedy (if any) to counteract the effects of such poison;
- (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or the regulations made under this Part;
- (g) requiring persons engaged in the sale, purchase or distribution of poisons to keep records and furnish information (whether in writing or otherwise);
- (h) the issue of prescriptions or orders for poisons, the dispensing of such prescriptions and the supply of poisons on such prescriptions or orders;

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- (i) prohibiting or regulating the distribution without consideration of poisons;
- (j) providing for the forfeiture of any poison unlawfully in the possession of any person and for the disposal of any poison so forfeited.

(2) Any provision inserted in any regulation made under this Part may apply to all poisons or to specified poisons or to poisons other than those specified.

DIVISION 2.—*Exemptions.*

Limitation
of applica-
tion of
Division 1.
cf. Act No.
65, 1902, s. 4;
Vict. Act No.
3748, s. 16.

20. Division 1 of this Part shall not apply to the sale of any poison included in Schedule One of the Poisons List—

- (a) when made up or compounded as a medicine by—
 - (i) a pharmacist; or
 - (ii) an assistant or apprentice under the direct personal supervision of a pharmacist,
 according to the prescription of a medical practitioner, dentist, or veterinary surgeon;
- (b) when made up or compounded extemporaneously as a medicine by a pharmacist for a specific and individual case;
- (c) when made up or compounded as a medicine which is supplied by a medical practitioner for the purposes of medical treatment, by a dentist for the purposes of dental treatment, or by a veterinary surgeon for the purposes of animal treatment;
- (d) in the form of homoeopathic medicines, unless in the crude state, mother tincture or of a greater strength than the third decimal potency;

but no medicine for external use containing poison shall by virtue of this section be sold or delivered unless the container thereof bears the word "Poison" printed conspicuously thereon together with the name and address of the seller thereof.

(4)

21. (1) Division 1 of this Part shall not apply to the sale of—

- (a) photographic materials (other than cyanide of potassium) for the purpose of photography;
- (b) poisoned material or liquid (except material or liquid containing cyanide of potassium or such other poison as may be prescribed) for the destruction of noxious animals, birds, insects or plants;
- (c) fly-poison papers not containing arsenic; or
- (d) poisons (other than cyanide of potassium) by wholesale dealers in the ordinary course of wholesale dealing where an order in writing signed by the purchaser has been given for the supply of the same:

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Further
limitation
of applica-
tion of
Division 1.
cf. Act No.
65, 1902, s. 4 g
Vict. Act No.
2743, s. 17.

Provided that regulations may be made with respect to the keeping and safe custody and labelling of any materials, liquids or articles mentioned in this subsection.

(2) No materials, liquids or articles mentioned in this section consisting of or containing any poison shall be sold or delivered unless the container thereof is labelled as directed by section eleven of this Act.

(3) Notwithstanding anything contained in subsection one of this section—

- (a) no person shall sell any material, liquid or article mentioned in paragraphs (a) and (b) of that subsection which consists of or contains any poison included in the first part of Schedule One of the Poisons List to any person who is under eighteen years of age;
- (b) the provisions of sections twelve and sixteen of this Act shall apply to and in respect of the sale of materials, liquids or articles mentioned in paragraphs (a) and (b) of subsection one of this section which consist of or contain any poison included in the first part of Schedule One of the Poisons List if the purchaser is unknown to the vendor.

(i)

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(4) Every sale of any poison included in the first part of Schedule One of the Poisons List pursuant to the provisions of paragraph (d) of subsection one of this section shall at the time of sale and before delivery be entered by the person who sells the same or by some employee, assistant or apprentice of such person in a book to be kept for that purpose together with the date of sale, the quantity and nature of the poison sold and the name and place of abode or business of the purchaser.

PART IV.

POISONOUS SUBSTANCES.

Application
of Act to
poisonous
substance
when mixed
with poison.

22. (1) Except where otherwise in this Part expressly provided, the provisions of this Part shall not apply to any poisonous substance when mixed or compounded with a poison.

(2) The provisions of Part III of this Act shall apply to and in respect of any poison when mixed or compounded with a poisonous substance.

Restrictions
on sale of
certain
poisonous
substances
and liquids.
cf. Vict. Act
No. 3748, s. 19.

23. (1) No person shall sell any poisonous substance—

(a) unless the container thereof is distinctly labelled with—

- (i) the name of the substance;
- (ii) the words "Poisonous, not to be taken";
- and
- (iii) the name and address of the seller; and

(b) unless such other requirements as are prescribed are complied with.

(2) In the sale by retail of any quantity not exceeding two quarts of any poisonous substance which is a liquid, no person shall deliver or send out the same to any person except in a bottle or other container the outer surface of which is fluted vertically with ribs or grooves recognisable by touch.

(3)

(3) (a) The provisions of this section, other than subsection four, shall not apply to anything to the sale of which, under the provisions of section twenty of this Act, Division 1 of Part III of this Act does not apply. No. 54, 1952.

(b) The provisions of subsection four of this section shall apply to any poisonous substance when mixed or compounded with a poison.

(4) Where there is included in Schedule Two of the Poisons List any liquid preparation containing any percentage of free ammonia or phenol or its homologues no person shall sell by wholesale such liquid preparation unless each container thereof is distinctly labelled with—

- (a) the name of the preparation;
- (b) the words "Poisonous, not to be taken";
- (c) the name and address of the seller; and
- (d) the percentage of free ammonia or phenol or its homologues contained therein,

and such other requirements as are prescribed are complied with.

24. Every person being the owner or other person in charge or possession of any poisonous substance who leaves it in any place (whether the same is ordinarily accessible to others or not) unless the container of whatever kind in which such substance is contained—

- (a) is marked "Poisonous, not to be taken"; and
- (b) is otherwise duly labelled in the manner provided by section twenty-three of this Act,

shall be guilty of an offence against this Act:

Provided that the foregoing provisions of this section shall not apply to any materials or articles mentioned in subsection one of section twenty-one of this Act or in Schedule Two of the Poisons List in any case where regulations are in force with respect to the keeping and safe custody and labelling of such materials or articles.

No. 54, 1952.

Regulations.

25. (1) The Governor, on the recommendation of the Committee, may make regulations not inconsistent with this Part, prescribing all matters which by this Part are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part.

In particular and without prejudice to the generality of the foregoing, regulations may be made with respect to—

- (a) the requirements to be complied with by persons selling poisonous substances;
- (b) the shape, size, colour and materials of the container or package in which any poisonous substances shall or shall not be sold;
- (c) the particulars to be specified on the label of the container of any poisonous substance by the manufacturer or retail seller thereof;
- (d) the safe custody of poisonous substances.

(2) Any provision inserted in any regulation made under this Part may apply to all poisonous substances or to specified poisonous substances or to poisonous substances other than those specified.

PART V.

RESTRICTED DRUGS.

Restricted
drugs.

26. (1) No person, other than a medical practitioner, a pharmacist, or a veterinary surgeon, shall sell by retail any restricted drug.

(2) Every person selling any restricted drug shall comply with the regulations under this section.

(3) The Governor, on the recommendation of the Committee, may make regulations for or with respect to—

- (a) the requirements and conditions to be complied with by persons selling any restricted drug;
- (b)

- (b) generally, all such matters and things as are necessary or convenient to be prescribed for carrying out or giving effect to the purposes of this section. No. 54, 1952.

(4) Any provision inserted in any regulation made under this section may apply to all restricted drugs or to any specified restricted drugs or to restricted drugs other than those specified.

PART VI.

CYANIDE OF POTASSIUM.

27. In this Part, unless inconsistent with the context or subject matter, "cyanide of potassium" includes cyanide of potassium, any other metallic cyanide, all poisonous compounds of cyanogen, and any admixtures or preparations thereof, but does not include calcium cyanide. Cyanide of potassium. cf. Vict. Act No. 3743, s. 48.

28. (1) No person shall sell cyanide of potassium unless— Restrictions on sale and purchase of cyanide of potassium. cf. Ibid. s. 49.

- (a) he is a medical practitioner;
- (b) he is a pharmacist;
- (c) he is a veterinary surgeon;
- (d) he is a person licensed to sell poisons under Division 1 of Part III of this Act;
- (e) he is the holder of a license under section thirty-one of this Act and he sells the cyanide of potassium in accordance with the conditions of that license;
- (f) he is a wholesale dealer who sells cyanide of potassium in the ordinary course of wholesale dealing and in accordance with the provisions of this Part.

(2) No wholesale dealer shall sell cyanide of potassium to any person who is not authorised to sell cyanide of potassium unless it is sold to be used for mining purposes or for trade purposes, but not for resale.

(3).

No. 54, 1952.

(3) No person, other than a person authorised under this section to sell cyanide of potassium, shall purchase cyanide of potassium to be used for mining purposes or for trade purposes unless he holds a permit to do so granted by the Board under section thirty-one of this Act.

Application of Division 1 of Part III to sales of cyanide of potassium—purchases thereof to be in accordance with this Part.
cf. Vict. Act No. 3748, s. 50.

29. (1) All sales of cyanide of potassium except—

- (a) sales by wholesale dealers in the ordinary course of wholesale dealing where an order in writing signed by the purchaser has been given for the supply of the same; and
- (b) sales of cyanide of potassium to be used for mining purposes if sold in quantities of not less than twenty-five pounds or to be used for trade purposes but not for resale,

shall be subject to the provisions of Division 1 of Part III of this Act as well as to such of the provisions of this Part as are applicable thereto.

(2) All purchases of cyanide of potassium (whether by wholesale or retail) shall be made in accordance with the provisions of this Part.

Sales of cyanide of potassium.
cf. *Ibid.* s. 51.

30. (1) At the time of the sale and before delivery of any cyanide of potassium the vendor shall fill in and the purchaser thereof shall sign—

- (a) a document in the prescribed form and containing the prescribed particulars; or
- (b) an entry containing the prescribed particulars in a book in the prescribed form kept by the vendor for the purpose.

(2) No sale of cyanide of potassium shall be made to any person who is not the holder of a permit under this Part to purchase cyanide of potassium to be used for mining purposes or to be used for trade purposes but not for resale unless the purchaser produces to the vendor a certificate in the prescribed form and containing the prescribed particulars and signed by—

- (a) a member of the police force in charge of the police station nearest to the place of sale; or
- (b)

(b) such other person (if any) as is prescribed, No. 54, 1952.
that the purchaser is a fit and proper person to be permitted to purchase cyanide of potassium.

No fee shall be chargeable in respect of any such certificate.

(3) (a) The book referred to in subsection one of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

(b) Where in relation to a sale of cyanide of potassium a document is filled in and signed pursuant to subsection one of this section or a certificate is produced pursuant to subsection two of this section, the vendor shall preserve the document or certificate for at least five years from the date on which it was signed by the purchaser or member of the police force or other prescribed person, as the case may be.

31. (1) The Board may, in accordance with the regulations, grant—

- (a) a license to any person to sell or distribute cyanide of potassium for mining purposes in quantities of not less than twenty-five pounds;
- (b) a license to any person to sell cyanide of potassium for trade purposes but not for resale;
- (c) a permit to any person for the purchase of cyanide of potassium in quantities of not less than twenty-five pounds for mining purposes;
- (d) a permit to any person for the purchase of cyanide of potassium for trade purposes but not for resale.

(2) Any application to the Board for a license or permit or for the renewal of a license or permit under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3)

Licenses
and permits
to sell
or purchase
cyanide of
potassium.

No. 54, 1952.

(3) (a) Licenses and permits under this section shall be in or to the effect of the form prescribed and shall be issued subject to such conditions as may be for the time being prescribed.

(b) A license or permit under this section—

- (i) shall, subject to this Act, remain in force until the thirty-first day of January next following the date of issue;
- (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

Penalty for
contravention
of this Part or
of the
regulations.
cf. Vict. Act
No. 3748, s. 58.

32. Every person who acts in contravention of or fails to comply with any of the provisions of this Part or any regulation thereunder or the conditions of any license or permit thereunder shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months.

Restrictions
on sale,
conveyance and
keeping of
calcium
cyanide.
cf. Vict. Act
No. 3748, s. 56.

33. Without affecting the requirements of any relevant provisions of this Act or of any regulations thereunder—

- (a) any person authorised to sell poisons who sells any calcium cyanide shall before delivering or forwarding the same to the purchaser pack the same in the prescribed manner;
- (b) a person shall not convey to the purchaser any calcium cyanide unless it is packed as aforesaid; and
- (c) every person being the owner or other person in charge or possession of any calcium cyanide shall (except during the conveyance thereof or when the calcium cyanide is actually being used) keep the same securely locked up in a suitable receptacle.

Regula-
tions.

34. The Governor, on the recommendation of the Committee, may make regulations not inconsistent with this Part prescribing all matters which by this Part are required

required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part. No. 54, 1952.

In particular, and without prejudice to the generality of the foregoing, regulations may be made with respect to—

- (a) the issue, transfer, renewal and cancellation of licenses and permits under this Part;
- (b) the purchase of cyanide of potassium;
- (c) the sale of cyanide of potassium (except the sale of cyanide of potassium so far as such sale is subject to the provisions of Division 1 of Part III of this Act);
- (d) the possession and distribution of cyanide of potassium;
- (e) the safe custody of cyanide of potassium;
- (f) preventing the improper use of cyanide of potassium;
- (g) the labelling of cyanide of potassium;
- (h) requiring persons engaged in the sale and distribution of or persons holding permits to purchase cyanide of potassium to keep books and furnish information (whether in writing or otherwise) as prescribed;
- (i) the inspection of such books and of entries therein and the making of copies of or extracts therefrom;
- (j) prescribing the conditions under which sales of cyanide of potassium may be made by correspondence (including telegrams and the like means of communication);
- (k) prescribing questions to be put whether by the vendor, or any person signing a certificate or any member of the police force on any sale or purchase of cyanide of potassium;
- (l) prescribing the professions, businesses, trades or industries with respect to which permits may be granted to persons carrying on the same to purchase

No. 54, 1952.

purchase for the purposes thereof but not for resale cyanide of potassium in accordance with this Part;

- (m) exempting from the provisions of this Part any compounds of cyanogen or any admixtures or preparations which by their nature are not capable of being used in evasion of this Part.

PART VII.

GENERAL.

Medicine for internal use not to be sold in containers like those in which poisons for external use may be sold.
cf. Vict. Act No. 3748, s. 67.

35. (1) No person shall sell any drug or medicine which is for internal use, or any drink, food or condiment in a container—

- (a) of like description to that prescribed for a container in which any poisonous substance intended for external use may be sold; or
(b) of such a description as not to be readily distinguishable by sight and touch or by either sight or touch from a container in which such a poisonous substance may be sold.

(2) Nothing in this section affects the other requirements of this Act or any regulation with respect to the containers in which drugs or medicines which are or contain poisons may be sold.

Hawking, etc., of poisons.
cf. *Ibid.* s. 68.

36. No person shall sell or offer for sale in any street or from house to house or shall hawk or peddle or shall distribute free or as samples in any street or public place or from house to house any poison or poisonous substance or restricted drug.

Nothing in this section applies to the free distribution of clinical samples to medical practitioners, dentists or veterinary surgeons.

Selling poisons, etc., by automatic machines prohibited.
cf. Vict. Act No. 3918, s. 11.

37. (1) No person shall—

- (a) whether on or about his premises or elsewhere—
(i) install any automatic machine for the sale or supply of any poison, poisonous substance or restricted drug; or

(ii)

- (ii) sell or supply any poison, poisonous substance or restricted drug by means of any automatic machine; or
- (b) allow, permit or suffer any such automatic machine to be installed on his premises; or
- (c) place or allow, permit or suffer to be placed any poison, poisonous substance or restricted drug in any automatic machine on his premises or under his control; or
- (d) allow, permit or suffer any person to purchase or be supplied with or otherwise obtain any poison, poisonous substance or restricted drug by means of any automatic machine on the premises or under the control of such first-mentioned person.

(2) Any person who commits any contravention of or fails to comply with any provision of this section shall be guilty of an offence against this Act and shall for every such offence be liable to a penalty of not more than fifty pounds or to imprisonment for a term not exceeding six months, and to a further penalty not exceeding ten pounds for each day on which any offence under this section is continued after conviction by any court.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the basis that the preparation containing one per centum of any substance means a preparation in which—

- (a) one gramme of the substance, if a solid; or
- (b) one millilitre of the substance, if a liquid,

is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

39. In any legal proceedings under this Act a certificate purporting to be signed by the registrar of the Board and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without

Calculation
of percentages
in case of liquid
preparations.
cf. Vict. Act
No. 3743, s. 69.

Certificate of
registrar prima
facie evidence.

No. 54, 1952. without proof of the signature of the person appearing to have signed the certificate or that he was the registrar of the Board, be prima facie evidence of the fact stated in the certificate.

Proof of certificate of an analyst.
cf. Act No. 81, 1908, s. 29.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

(2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908-1944.

Sales by employees, etc.
cf. Vict. Act No. 3748, s. 73;
Act No. 65, 1902, s. 13 (2).

41. For the purposes of this Act any person on whose behalf a sale is made shall be deemed to be the person who sells, and every employee, assistant or apprentice of such person shall be liable to the like penalties as the person on whose behalf he makes any sale.

Powers of inspection.

42. (1) For the purposes of ascertaining whether the provisions of this Act or any regulation are being complied with any member of the police force or person authorised in writing in that behalf (either generally or in any particular case) by the Board may—

(a) enter into and upon premises of any person selling or offering or exposing for sale or distribution or having in his possession any poison, poisonous substance or restricted drug and search those premises;

(b) demand the production of and inspect any stocks of poison, poisonous substance or restricted drug in or about those premises;

(c) |

- (c) require the production of and inspect and make copies of or take extracts from any books or documents relating to any dealing in any poison, poisonous substance or restricted drug by such last-mentioned person; No. 54, 1952.
- (d) seize and detain any poison, poisonous substance or restricted drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

(2) Every person who—

- (a) wilfully delays or obstructs any authorised person or any member of the police force in the exercise of his powers under this Act; or
- (b) fails to produce or conceals or attempts to conceal any such books or documents or stock as aforesaid,

shall be guilty of an offence against this Act.

43. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect to any particular article or substance that it conforms to any of the following descriptions, namely:—

- (a) that it is a poison or poisonous; or
- (b) that it consists of or contains poison; or
- (c) that it is a poisonous substance; or
- (d) that it is a restricted drug,

then in every such case—

- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly; and

Evidence in prosecutions under this Act. cf. Vict. Act No. 3743, s. 76 (2).

No. 54, 1952.

- (ii) evidence that any particular article or substance or the container thereof is labelled "Poison" or "Poisonous, not to be taken" shall be prima facie evidence that the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b) or (c) of this section, as the case may require.

Penalty for offences under Part III.

cf. Vict. Act No. 3748, s. 18.

44. Except so far as is otherwise expressly enacted, every person who—

- (a) sells any poison contrary to the provisions of Part III of this Act;
- (b) on any sale thereof delivers the same without having made and signed the entries required by Part III of this Act;
- (c) sells any poison without having obtained the signature to such entry as required by Part III of this Act;
- (d) purchases poison and gives false information in answer to inquiries to the person selling the same in relation to particulars which he is by Part III of this Act authorised to inquire into of such purchaser;
- (e) signs his name as a witness to the sale of any such poison to a person unknown to him;
- (f) acts in contravention of or fails to comply with any of the provisions of Part III of this Act for which no other penalty is expressly provided;
- (g) sells or offers for sale any poison or poisonous mixture in respect of which the provisions of any regulations made pursuant to Part III of this Act have not been complied with,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds, or in the case of a continuing offence to a penalty not exceeding five pounds for every day during which the offence continues.

Penalty.

45. Every person who acts in contravention of or fails to comply with any provision of this Act or any regulation for which no other penalty is expressly provided shall be liable to a penalty not exceeding fifty pounds.

46.

46. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

No 54, 1952.

Recovery of penalties.

47. (1) All fees payable under this Act shall be paid to the registrar of the Board.

Application of fees and penalties.

(2) The amount of such fees shall be paid by the registrar to the Colonial Treasurer and shall be carried to the Consolidated Revenue Fund.

(3) The whole amount of all penalties recovered under this Act shall be paid into the Consolidated Revenue Fund.

48. All regulations made under this Act shall—

Publication, etc., of regulations.

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULE.

Sec. 2.

Reference to Act.	Short title.	Extent of repeal.
No. 65, 1902.	Poisons Act, 1902. ...	The whole.
No. 54, 1940.	Pharmacy (Amendment) Act, 1940.	Section six.

LANDLORD