

THERAPEUTIC GOODS AND COSMETICS ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 14, 1972.

An Act to regulate the manufacture, distribution and advertising of certain therapeutic goods; to impose standards in relation to certain therapeutic goods and cosmetics; to amend the Pure Food Act, 1908, the Poisons Act, 1966, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 22nd March, 1972.]

BE

Therapeutic Goods and Cosmetics.

BE it enacted by the Queen's Most Excellent Majesty, by **No. 14, 1972** 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 "Therapeutic Goods and Cosmetics Act, 1972".

Short title
and com-
mencement.

(2) The several provisions of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–6.

**PART II.—THERAPEUTIC GOODS AND COSMETICS
ADVISORY COMMITTEE—ss. 7–11.**

PART III.—LICENSES—ss. 12–21.

**DIVISION 1.—Matters for which Licenses Required—
ss. 12–16.**

**DIVISION 2.—Provisions Applicable to Licenses—ss.
17–21.**

PART IV.—STANDARDS—ss. 22–25.

**PART V.—ADVERTISEMENTS AND RELATED MATTERS
—ss. 26–28.**

**PART VI.—INSPECTION AND SEIZURE OF GOODS—ss.
29–38.**

PART VII.—ANALYSIS—ss. 39, 40.

PART VIII.—MISCELLANEOUS—ss. 41–55.

DIVISION 1.—General—ss. 41–45.

DIVISION

Therapeutic Goods and Cosmetics.

No. 14, 1972

DIVISION 2.—*Regulations and Orders*—ss. 46, 47.DIVISION 3.—*Offences and Legal Proceedings*—ss.
48–55.

PART IX.—AMENDMENT OF ACTS—ss. 56–59.

Effect of
this Act
on other
Acts.

3. (1) Subject to subsection two of this section, nothing in this Act affects any of the provisions of any other Act, or any regulations, ordinances or by-laws made under any other Act, or derogates from any powers vested in any person or body by any other Act, or any regulations, ordinances or by-laws made under any other Act.

(2) Where the provisions of this Act are inconsistent with any of the provisions of any other Act or any regulation, ordinance or by-law made under any other Act, the provisions of this Act shall prevail.

(3) Where the provisions of any regulation made under this Act are inconsistent with any of the provisions of any regulation, ordinance or by-law made under any other Act, the provisions of the regulation made under this Act shall prevail.

Interpreta-
tion.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“advertisement”, in relation to any goods, means advertisement published—

- (a) in a newspaper, magazine or other publication;
- (b) in a circular, handbill, poster or other notice;
- (c) on the goods or any part of the goods, or on any other goods or any part of those other goods;
- (d) on any label, container or package of the goods or any other goods;

(e)

Therapeutic Goods and Cosmetics.

(e) orally or by any means of producing or transmitting light or sound; or

(f) in any other manner,

for the purposes of promoting, directly or indirectly, the sale of those goods;

“analysis”, in relation to any goods, means any bacteriological, biochemical, biological, chemical, electrical, electrochemical, microscopical, pathological, physical or other examination or test for ascertaining the presence or absence of any substance or organism or the composition or other qualities of those goods;

“analyst” means analyst appointed under section thirty-nine of this Act;

“article of food” means article of food within the meaning of the Pure Food Act, 1908;

“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;

“Committee” means the Therapeutic Goods and Cosmetics Advisory Committee constituted under section seven of this Act;

“container”, in relation to any goods, means the vessel, bottle, tube, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately covers the goods;

“cosmetic” means substance that—

(a) is included in a class of substances the sole or principal use of which is, or ordinarily is, a cosmetic use; or

(b) is represented to be, or might reasonably be taken to be, for cosmetic use,

*Therapeutic Goods and Cosmetics.***No. 14, 1972**

and includes any goods in respect of which an order under subsection three of section five of this Act is in force declaring those goods to be a cosmetic, but does not include—

- (c) any therapeutic goods; or
- (d) any goods in respect of which an order under subsection three of section five of this Act is in force declaring those goods not to be a cosmetic;

“dentist” means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934;

“device” means any instrument, apparatus or contrivance, and includes any component, part or accessory thereof;

“expiry date”, in relation to any goods, means a day after which they may be expected to cease to conform to any standards applicable thereto;

“goods for animal use only” means goods that—

- (a) bear any particulars that constitute, or might reasonably be taken for, a statement that the goods are intended for animal use and are not intended for human use; or
- (b) are otherwise represented, whether by writing or otherwise, or otherwise purport, to be intended for animal use and not to be intended for human use;

“inspector” means inspector appointed under section twenty-nine of this Act;

“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 goods; and “labelled” and “labelling” have corresponding interpretations;

“license”

Therapeutic Goods and Cosmetics.

“license” means a valid license that is not cancelled or No. 14, 1972 suspended;

“manufacture”, in relation to any goods, means the manufacture or preparation of those goods and includes—

(a) any part of the manufacture or preparation of those goods; and

(b) the packaging and labelling of those goods; and “manufactured” has a corresponding interpretation;

“nurse” means a person registered as a nurse under the Nurses Registration Act, 1953;

“package”, in relation to any goods, includes every means by which the goods may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed;

“pharmacist” means a pharmacist within the meaning of the Pharmacy Act, 1964;

“premises” includes land, and ship, aeroplane or other vehicle or vessel;

“public institution” means—

(a) any Government Department, public hospital or university within New South Wales; 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;

“publish” includes cause, allow or permit to be published;

“regulations” means regulations under this Act;

“sale”

Therapeutic Goods and Cosmetics.

No. 14, 1972

“sale” includes sale whether by wholesale or retail, and includes dealing in, or agreeing to sell, or offering or exposing for sale, or keeping or having in possession for sale, or sending, forwarding, delivering or receiving for sale or on sale, or authorising, directing, causing, suffering, permitting or attempting any of those acts or things; and “sell” has a corresponding interpretation;

“standards” means requirements referred to in subsection two of section twenty-two of this Act;

“substance” includes preparation or admixture and all salts and derivatives of any substance;

“therapeutic device” means—

(a) device that—

- (i) is included in a class of devices the sole or principal use of which is, or ordinarily is, a therapeutic use; or
- (ii) is represented to be, or might reasonably be taken to be, for therapeutic use; or

(b) device that—

- (i) is included in a class of devices the sole or principal use of which is, or ordinarily is, a use for the purpose of or in connection with measuring or weighing therapeutic goods by the person using or administering those goods; or
- (ii) is represented to be, or might reasonably be taken to be, for a use of the kind referred to in subparagraph (i) of this paragraph,

and

Therapeutic Goods and Cosmetics.

and includes any goods in respect of which an order under subsection two of section five of this Act is in force declaring those goods to be a therapeutic device, but does not include—

- (c) any goods for animal use only; or
- (d) any goods in respect of which an order under subsection two of section five of this Act is in force declaring those goods not to be a therapeutic device;

“therapeutic goods” means therapeutic substance or therapeutic device, and includes any container or package thereof;

“therapeutic substance” means—

- (a) substance that—
 - (i) is included in a class of substances the sole or principal use of which is, or ordinarily is, a therapeutic use; or
 - (ii) is represented to be, or might reasonably be taken to be, for therapeutic use; or
- (b) substance that—
 - (i) is represented to be, or might reasonably be taken to be, for use as an ingredient, or the sole ingredient, in the manufacture of a substance referred to in paragraph (a) of this definition, whether or not the substance that is so represented or might reasonably be so taken is to be itself the subject of manufacture or of further manufacture; or

(ii)

Therapeutic Goods and Cosmetics.

No. 14, 1972

- (ii) is included in a class of substances the sole or principal use of which is, or ordinarily is, a use of the kind referred to in subparagraph (i) of this paragraph,

and includes—

- (c) any gelatin capsule or other substance enclosing a substance referred to in paragraph (a) or (b) of this definition, if that capsule or other substance is intended to be consumed or otherwise administered together with the substance so referred to; and
- (d) any goods in respect of which an order under subsection one of section five of this Act is in force declaring those goods to be a therapeutic substance,

but does not include—

- (e) any article of food;
- (f) any goods for animal use only; or
- (g) any goods in respect of which an order under subsection one of section five of this Act is in force declaring those goods not to be a therapeutic substance;

“therapeutic use” means a use for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man or animal;
- (b) influencing, inhibiting or modifying a physiological process in man or animal;
- (c) testing the susceptibility of man or animal to a disease or ailment; or
- (d) destroying or inhibiting micro-organisms that may be harmful to man or animal;

“Under

Therapeutic Goods and Cosmetics.

“Under Secretary” means the person for the time being No. 14, 1972 holding office or acting as the Under Secretary of the Department of Health and, where an officer of that Department has been authorised in writing by the Under Secretary to exercise or perform any of the powers, authorities, duties or functions of the Under Secretary under this Act or the regulations either generally or in a particular case, includes, in relation to the exercise or performance of any such powers, authorities, duties or functions either generally or in that particular case, as the case may be, that officer;

“veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923;

“wholesale dealing”, in relation to any goods—

- (a) means sale or supply of those goods in the ordinary course of wholesale dealing for the purposes of resale; and
- (b) includes sale or supply in wholesale quantities in the ordinary course of wholesale dealing and for use in any public institution or in connection with any prescribed profession, business, trade or industry carried on by any person who satisfies the wholesale dealer that he bona fide requires those goods for use, but not for resale, in connection with that profession, business, trade or industry;

and “wholesale” has a corresponding interpretation.

(2) For the purposes of the definition of “goods for animal use only” in subsection one of this section, goods are deemed to bear any particulars if those particulars are set out on—

(a) the goods or any part of the goods;

(b)

Therapeutic Goods and Cosmetics.

- No. 14, 1972
- (b) a container or package of the goods or any part of the goods;
 - (c) a label attached to the goods or any part of the goods; or
 - (d) a label attached to a container or package of the goods or any part of the goods.

Orders as
to certain
goods.

5. (1) The Minister may, by order published in the Gazette, declare any goods specified or described in the order—

- (a) to be a therapeutic substance; or
- (b) not to be a therapeutic substance,

if he is of the opinion that, but for the order, doubt would exist or may arise as to whether or not those goods are a therapeutic substance.

(2) The Minister may, by order published in the Gazette, declare any goods specified or described in the order—

- (a) to be a therapeutic device; or
- (b) not to be a therapeutic device,

if he is of the opinion that, but for the order, doubt would exist or may arise as to whether or not those goods are a therapeutic device.

(3) The Minister may, by order published in the Gazette, declare any goods specified or described in the order—

- (a) to be a cosmetic; or
- (b) not to be a cosmetic,

if he is of the opinion that, but for the order, doubt would exist or may arise as to whether or not those goods are a cosmetic.

Therapeutic Goods and Cosmetics.

6. (1) The Minister may, by order published in the No. 14, 1972 Gazette, exempt any person or class of persons, or any goods ^{Exemptions.} or class of goods, specified or described in the order from all of the provisions of this Act or such of the provisions of this Act as are specified or described in the order.

(2) An order under this section may be made unconditionally or subject to such conditions as are specified or described therein.

PART II.

THERAPEUTIC GOODS AND COSMETICS ADVISORY COMMITTEE.

7. (1) For the purposes of this Act there shall be constituted a Therapeutic Goods and Cosmetics Advisory Committee which shall consist of eight members. ^{Constitution of Committee.}

(2) The members of the Committee shall be—

- (a) the person for the time being holding office or acting as the Director-General of Public Health, or a medical practitioner, being an officer of the Department of Health, from time to time nominated by him; and
- (b) seven members appointed by the Governor (in this Part referred to as "appointed members") of whom—
 - (i) two shall be representatives of the National Council of Chemical and Pharmaceutical Industries nominated by that Council;

ii)

Therapeutic Goods and Cosmetics.

No. 14, 1972

- (ii) one shall be a representative of the Cosmetic and Toiletry Manufacturers' Association of Australia nominated by that Association;
- (iii) one shall be a representative of the Media Council of Australia nominated by that Council;
- (iv) one shall be a representative of the Australian Association of National Advertisers nominated by that Association;
- (v) one shall be a pharmacist nominated by the Minister; and
- (vi) one shall be a pharmacologist nominated by the Minister.

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

(4) The member referred to in paragraph (a) of subsection two of this section shall be chairman of the Committee.

(5) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of any member of the Committee, and any such member shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

(6) Every member of the Committee shall be entitled to receive such travelling expenses, and every appointed member shall, if the terms of his appointment so provide, be entitled to receive such fees for attending meetings, transacting business of the Committee and making inspections for the purposes of this Act, as may be prescribed.

(7)

Therapeutic Goods and Cosmetics.

(7) The office of an appointed member shall not, by No. 14, 1972 reason of the member's accepting or receiving any expenses or fees to which he is entitled under subsection six of this section, be deemed to be an office of profit under the Crown for the purposes of the Constitution Act, 1902.

8. (1) An appointed member shall be deemed to have ^{Casual} vacated his office as a member of the Committee if he— _{vacancies.}

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958;
- (d) absents himself from four consecutive meetings of the Committee of which reasonable notice has been given to him either personally or in the ordinary course of post except on leave granted by the Minister before the last of those meetings; or
- (e) is removed from office by the Governor.

(2) Without limiting the operation of subsection one of this section an appointed member shall be deemed to have vacated his office as a member of the Committee upon his attaining the age of seventy years.

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

(4) An appointment to fill the casual vacancy shall be made on the nomination of the person or body by whom the nomination of the person whose office has been vacated was made.

(5)

Therapeutic Goods and Cosmetics.

No. 14, 1972

(5) Any nomination of an appointed member shall be made within the time and in the manner prescribed and in default of any body referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (b) of subsection two of section seven of this Act entitled to make any such nomination doing so within that time and in that manner the Governor may appoint any person to the Committee as if that person had been duly nominated by the body entitled to make the nomination.

Procedure.

9. (1) The chairman shall preside at all meetings of the Committee at which he is present and in the absence of the chairman from any meeting the members present shall appoint one of their number to preside at that meeting.

(2) The person entitled to preside at any meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(3) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Act and to the regulations, be as determined by the Committee.

(4) The number of members who shall constitute a quorum of the Committee shall be as prescribed and the decision of the majority of members present at any meeting at which a quorum is present shall be the decision of the Committee.

Functions
of Commit-
tee

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

- (a) recommendations for making, altering or repealing any regulation; and
- (b) recommendations relating to the administration of this Act.

(2)

Therapeutic Goods and Cosmetics.

(2) It shall be the duty of the Committee to make recommendations to the Under Secretary in respect of matters referred to it by the Under Secretary and 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 for making, altering or repealing any regulation; and
- (b) the administration of this Act,

and any such recommendation or advice shall be so made to the Under Secretary or given to the Minister, as the case may be, within one month after the reference or within such further period as the Under Secretary or the Minister, as the case may be, may from time to time allow.

11. (1) The Committee may establish sub-committees for the purpose of advising the Committee upon such matters within the scope of the Committee's functions as may be referred to the sub-committees by the Committee.

(2) A person may be appointed to a sub-committee whether or not he is a member of the Committee.

(3) A sub-committee may exercise and discharge such of the Committee's powers, authorities, duties and functions as may be delegated to it by the Committee.

(4) Notwithstanding any such delegation, the Committee may continue to exercise and discharge any of the powers, authorities, duties and functions so delegated.

(5) The Committee may at any time revoke any such delegation, either wholly or in part.

(6) Every member of a sub-committee shall be entitled to receive such travelling expenses and shall, if the Minister so approves, be entitled to receive such fees for attending meetings, transacting business of the sub-committee and making inspections for the purposes of this Act, as may be prescribed.

(7)

Therapeutic Goods and Cosmetics.

- No. 14, 1972 (7) The office of a member of a sub-committee shall not, by reason of the member's accepting or receiving any expenses or fees to which he is entitled under subsection six of this section, be deemed to be an office of profit under the Crown for the purposes of the Constitution Act, 1902.

PART III.

LICENSESES.

DIVISION 1.—*Matters for which Licenses Required.*

12. (1) As from the expiration of three months after the commencement of this section, the person who conducts or has the control of any premises on which any substance to which this section applies is manufactured for sale shall be guilty of an offence against this Act, unless the manufacture of that substance on those premises is authorised under the terms of a license issued under this Act.

(2) This section applies to a substance that is—

- (a) a therapeutic substance; or
- (b) a cosmetic prescribed as being a substance to which this section applies,

but does not apply to—

- (c) a therapeutic substance prescribed as being a substance to which this section does not apply;
- (d) a therapeutic substance that is manufactured by a medical practitioner or dentist for use in the treatment of a patient under his care; or

(e)

Manufacture
of thera-
peutic sub-
stances or
cosmetics
without
license.

Therapeutic Goods and Cosmetics.

(e) a therapeutic substance that is manufactured by a No. 14, 1972 pharmacist—

- (i) on premises on which the business of a pharmacist is carried on in open shop;
- (ii) on the premises of a dispensary conducted by a friendly society; or
- (iii) on the premises of a public hospital or public institution,

for sale (otherwise than by wholesale) on or from those premises.

13. (1) As from the expiration of three months after the commencement of this section, a person who sells by wholesale any substance to which this section applies shall be guilty of an offence against this Act, unless that sale is authorised under the terms of a license issued under this Act.

Sale by wholesale of therapeutic substances and cosmetics without license.

(2) This section applies to a substance that is—

- (a) a therapeutic substance; or
- (b) a cosmetic prescribed as being a substance to which this section applies,

but does not apply to a therapeutic substance prescribed as being a substance to which this section does not apply.

14. (1) As from the expiration of three months after the commencement of this section, the person who conducts or has the control of any premises on which any device to which this section applies is manufactured for sale shall be guilty of an offence against this Act, unless the manufacture of that device on those premises is authorised under the terms of a license issued under this Act.

Manufacture of therapeutic devices without license.

(2) This section applies to a therapeutic device prescribed as being a device to which this section applies.

15.

Therapeutic Goods and Cosmetics.

No. 14, 1972 **15.** (1) As from the expiration of three months after the commencement of this section, a person who sells by wholesale any device to which this section applies shall be guilty of an offence against this Act, unless that sale is authorised under the terms of a license issued under this Act.

Sale by
wholesale
of thera-
peutic
devices
without
license.

(2) This section applies to a therapeutic device prescribed as being a device to which this section applies.

16. (1) As from the expiration of three months after the commencement of this section, a person who sells by retail any device to which this section applies shall be guilty of an offence against this Act, unless that sale is authorised under the terms of a license issued under this Act.

Sale by
retail of
therapeutic
devices
without
license.

(2) This section applies to a therapeutic device prescribed as being a device to which this section applies.

DIVISION 2.—Provisions Applicable to Licenses.

Classes of
licenses
which may
be issued.

17. (1) Licenses authorising—

- (a) the manufacture for sale of any substance to which section twelve of this Act applies;
- (b) the sale by wholesale of any substance to which section thirteen of this Act applies;
- (c) the manufacture for sale of any device to which section fourteen of this Act applies;
- (d) the sale by wholesale of any device to which section fifteen of this Act applies; or
- (e) the sale by retail of any device to which section sixteen of this Act applies,

may be issued under section twenty of this Act.

(2)

Therapeutic Goods and Cosmetics.

(2) Nothing in this Act prevents the issue of one No. 14, 1972 license authorising any two or more of the types of matters referred to in paragraphs (a), (b), (c), (d) and (e) of subsection one of this section.

18. A license shall remain in force until cancelled or suspended. Duration of license.

19. (1) A license may be issued unconditionally.

(2) The Under Secretary may attach any conditions to a license upon its issue.

Conditions attaching to license and variation of license.

(3) The Under Secretary may, by notice in writing served on the holder of a license—

- (a) attach any conditions to the license after its issue;
- (b) vary or remove any conditions attached to the license; or
- (c) otherwise vary the license.

20. (1) Where an application for a license is made to the Under Secretary in or to the effect of the prescribed form and is accompanied by the prescribed application fee, the Under Secretary may— Application for and issue of licenses.

- (a) refuse the application; or
- (b) issue the license.

(2) Different application fees may be prescribed for the purposes of subsection one of this section for different classes of licenses.

(3) A license shall be in or to the effect of the prescribed form.

(4) Where an application for a license is refused, the fee accompanying the application shall be refunded.

21.

Therapeutic Goods and Cosmetics.

No. 14, 1972 **21.** (1) The Under Secretary may, by notice in writing served on the holder of a license, cancel or suspend the license—
 Cancellation or suspension of license.

- (a) if the prescribed license fee is not paid in accordance with the regulations at the prescribed times;
- (b) if the holder of the license has been convicted of an offence against this Act or the regulations;
- (c) if the holder of the license has not complied with any of the conditions attached to the license; or
- (d) if the holder of the license requests in writing that it be cancelled or suspended.

(2) Different license fees may be prescribed for the purposes of paragraph (a) of subsection one of this section for different classes of licenses.

(3) The Under Secretary may restore any license that is suspended, notwithstanding that any period during which the suspension is to continue has not expired.

(4) A license shall be deemed not to be in force during any period of its suspension.

(5) Where the Under Secretary suspends a license, he shall specify the period during which the suspension is to continue and may specify further such periods from time to time.

PART IV.

STANDARDS.

Standards. **22.** (1) In this section, "goods" means therapeutic goods or cosmetics.

(2)

Therapeutic Goods and Cosmetics.

(2) The regulations may make provision for or with No. 14, 1972 respect to the determination of the requirements to which any goods are to conform when sold.

(3) Without affecting the generality of subsection two of this section, a standard in relation to any goods may relate to—

- (a) the composition, strength, potency, stability, purity, quality, construction or other properties thereof;
- (b) the quantity thereof;
- (c) the manner in which they were manufactured;
- (d) the packaging and labelling thereof; or
- (e) the manner in which they have been stored, handled or conveyed.

(4) Without affecting the generality of subsection two or three of this section, a standard in relation to any goods may—

- (a) prohibit the goods from—
 - (i) containing any prescribed substance; or
 - (ii) containing any prescribed substance in a prescribed quantity or proportion;
- (b) require prescribed information or statements to appear on the label, container or package of the goods; or
- (c) prohibit prescribed information or statements from appearing on the label, container or package of the goods.

(5) Without affecting the generality of subsection two or three of this section, a standard in relation to any goods may require an expiry date, determined in accordance with the regulations, to be stated on the goods or on the label, container or package of the goods.

(6)

Therapeutic Goods and Cosmetics.

No. 14, 1972

(6) The regulations may make provision for or with respect to the determination of the person whose duty it shall be to ensure conformity with any standard before or at the time of sale of the goods to which the standard relates.

(7) Where any goods are sold after the expiry date that is, in accordance with a standard referred to in subsection five of this section, stated in relation to the goods, the goods shall, except in such circumstances as may be prescribed, be deemed not to conform to that standard.

(8) Where, in accordance with a standard in relation to any goods, any prescribed information or statement appears on the label, container or package of the goods, the goods shall be deemed not to conform to that standard if there is included thereon any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies that information or statement.

Adoption by
reference of
standards.

23. (1) In this section—

“prescribed publication” means—

- (a) an edition of the British Pharmacopoeia (whether published before or after the commencement of this section) that is specified in the regulations;
- (b) an edition of the British Pharmaceutical Codex (whether published before or after that commencement) that is so specified; or
- (c) an edition of some other publication (whether published before or after that commencement) that is so specified,

together with any additions or amendments thereto (whether published or made before or after that commencement) that are so specified;

“the

Therapeutic Goods and Cosmetics.

“the British Pharmaceutical Codex” means the book of No. 14, 1972 that name published by direction of the Council of the Pharmaceutical Society of Great Britain;

“the British Pharmacopoeia” means the book of that name published before the commencement of Part VII of the Medicines Act 1968 of the Parliament of the United Kingdom under the direction of the General Medical Council of the United Kingdom or published after that commencement in accordance with the provisions of that Part.

(2) The regulations may, in making provision for or with respect to the determination of any standards, adopt by reference the whole or any part of any monograph or other material contained in a prescribed publication or any such monograph or other material as modified pursuant to subsection three of this section.

(3) The regulations may provide for the modification of any monograph or other material adopted under subsection two of this section.

24. A person shall not sell any therapeutic goods or cosmetics that do not conform to any standard applicable thereto. Sale of goods not in conformity with standards.

25. In any prosecution for an offence arising under section twenty-four of this Act in respect of the sale of any therapeutic goods or cosmetics (which goods or cosmetics are in this section referred to as “the goods”) that did not conform to a standard applicable thereto, it shall be a defence if the Defence.

seller

Therapeutic Goods and Cosmetics.

No. 14, 1972 seller proves that at the time of the sale he had no reason to suppose, and did not in fact suppose, that the goods did not conform to the standard and—

- (a) where the regulations make provision for or with respect to the determination of the person whose duty it is to ensure conformity with the standard in relation to the goods—that it was not his duty to ensure conformity therewith; or
- (b) where the regulations do not so provide—that it was not reasonable to expect that he should have been able to ensure conformity with the standard in so far as the ensuring of conformity therewith related to acts, matters or things outside his control.

PART V.

ADVERTISEMENTS AND RELATED MATTERS.

Prohibition
of certain
representa-
tions in
advertisements.

26. (1) A person shall not publish any advertisement that contains any representation, whether express or implied, that any therapeutic goods or article of food may be used for the purpose of or in connection with—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in man;
- (b) influencing, inhibiting or modifying a physiological process in man;
- (c) testing the susceptibility of man to a disease or ailment; or
- (d) destroying or inhibiting micro-organisms that may be harmful to man or animal,

being a disease, ailment, defect, injury or process that is prescribed for the purposes of this subsection, unless that representation is, or substantially is, a representation prescribed for the purposes of this subsection.

(2)

Therapeutic Goods and Cosmetics.

(2) A person shall not publish any advertisement No. 14, 1972 that contains any representation, whether express or implied, in respect of any therapeutic goods or article of food prescribed for the purposes of this subsection, if that representation is, or substantially is, a representation prescribed for the purposes of this subsection.

(3) Without affecting the generality of subsection one or two of this section—

- (a) a regulation made for the purposes of subsection one of this section may provide that a representation may be made if it is qualified in a manner specified or described in the regulation; or
- (b) a regulation made for the purposes of subsection two of this section may provide that a representation may not be made unless it is qualified in a manner specified or described in the regulation.

(4) A person shall not publish any advertisement that contains a representation that is qualified in any manner as required under subsection three of this section if the advertisement contains any comment, reference or explanation that expressly or impliedly contradicts, qualifies or modifies the representation as qualified in that manner.

(5) A person guilty of an offence under either subsection one or two of this section in respect of a representation contained in an advertisement is not liable to be punished for an offence under the other of those subsections in respect of the same representation contained in that advertisement.

(6) Nothing in subsection one or two of this section applies in respect of any representation contained in an advertisement that is contained in any journal the circulation of which is intended to be limited to persons who are medical practitioners, pharmacists, dentists, veterinary surgeons or nurses or who are engaged in the business of selling by wholesale therapeutic goods or that is contained in any other document that is intended to be published exclusively to or among such persons.

(7)

Therapeutic Goods and Cosmetics.

No. 14, 1972

(7) Nothing in this section affects the operation of any other provision of this Act that relates to standards with respect to the labelling of therapeutic goods.

Advertisement to contain name, address, etc.

27. (1) Except as provided by the regulations, a person who publishes an advertisement for any therapeutic goods shall include in that advertisement the name and address of the person authorising the publication of the advertisement and such other information as may be prescribed.

(2) Nothing in this section—

- (a) applies in respect of any advertisement that is published orally or by any means of producing or transmitting light or sound; or
- (b) affects the operation of any other provision of this Act that relates to standards with respect to the labelling of therapeutic goods.

Order prohibiting false or misleading representations or names.

28. (1) Where the Under Secretary is of the opinion that a representation, if made in respect of therapeutic goods, would be false or misleading, he may, by order in writing served on a person specified or described in the order, prohibit that person from publishing any advertisement that contains that representation (whether express or implied) made in respect of any such goods.

(2) Where the Under Secretary is of the opinion that the name of any therapeutic goods, if sold or advertised under that name, would be misleading, he may, by order in writing served on a person specified or described in the order, prohibit that person from selling those goods under that name or from publishing any advertisement advertising those goods under that name.

(3)

Therapeutic Goods and Cosmetics.

(3) An order under this section shall take effect No. 14, 1972 from a date to be specified therein, which date shall be not earlier than seven days after the service of the notice.

(4) A person shall not publish any advertisement in contravention of an order in force under this section.

(5) A person shall not sell any therapeutic goods in contravention of an order in force under this section.

(6) An order may be made under this section in relation to a representation whether or not that representation may be made under section twenty-six of this Act.

(7) A person guilty of an offence under either section twenty-six of this Act or this section in respect of a representation contained in an advertisement is not liable to be punished for an offence under the other of those sections in respect of the same representation contained in that advertisement.

PART VI.

INSPECTION AND SEIZURE OF GOODS.

29. (1) The Under Secretary may appoint a person to Inspectors. be an inspector for the purposes of this Act.

(2) A person may be appointed to be an inspector whether or not he is a member of the Public Service.

(3)

Therapeutic Goods and Cosmetics.

No. 14, 1972 (3) Every inspector shall be provided by the Under Secretary with a certificate of appointment.

Powers of inspectors.

30. (1) This section applies to—

- (a) goods that are therapeutic goods or cosmetics and are for sale or are (whether or not the goods are to be the subject of further manufacture) intended for sale, other than goods that are prescribed as being goods to which this section does not apply; or
- (b) goods which an inspector believes on reasonable grounds are goods referred to in paragraph (a) of this subsection.

(2) For the purpose of ascertaining whether the provisions of this Act or the regulations are being complied with, an inspector may, upon production of his certificate of appointment—

- (a) enter, inspect or search, at any reasonable time, any premises which he believes on reasonable grounds are used for or with respect to the manufacture, distribution, conveyance, storage, handling or sale of goods to which this section applies;
- (b) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to the manufacture of or any dealings in any goods to which this section applies;
- (c) require the production of any goods to which this section applies;
- (d) open and examine any receptacle, container or package which he believes on reasonable grounds may contain goods to which this section applies;
- (e) examine any goods to which this section applies;

(f)

Therapeutic Goods and Cosmetics.

- (f) seize and remove for analysis portions or samples No. 14, 1972 of goods to which this section applies; or
- (g) subject to subsection three of this section, seize any goods to which this section applies.

(3) Without affecting his powers under paragraph (f) of subsection two of this section and notwithstanding anything contained in this section, an inspector shall not seize goods under paragraph (g) of that subsection—

- (a) unless the inspector believes on reasonable grounds that there has been a contravention of any of the provisions of this Act or the regulations with respect to the goods; and
- (b) in the case of goods that are in the possession, care, custody or control of any manufacturer of those goods—unless the inspector also believes on reasonable grounds that the goods are for sale or are, without further manufacture other than packaging or labelling, intended for sale.

31. (1) Goods seized under section thirty of this Act shall be released upon the expiration of the prescribed period after the seizure unless—

Release of
seized
goods.

- (a) the forfeiture of the goods is consented to under section thirty-six of this Act; or
- (b) a court of petty sessions orders under section thirty-two of this Act that the goods be forfeited.

(2) Goods seized under section thirty of this Act may be released before the expiration of the prescribed period.

(3)

Therapeutic Goods and Cosmetics.

No. 14, 1972

(3) The release of any goods under subsection one or two of this section shall be made—

- (a) by or at the direction of the inspector who seized them or of the Under Secretary; and
- (b) to the owner of the goods or the person in whose possession, care, custody or control they were at the time of the seizure.

(4) Nothing in this section requires the release of any goods or any part thereof damaged or destroyed in the course of an analysis thereof.

(5) A court of petty sessions may, in any particular case, extend the period referred to in subsection one of this section.

Order that
seized
goods be
forfeited.

32. (1) A court of petty sessions may order that, upon the expiration of any period specified in the order, any goods seized under section thirty of this Act and specified in the order be forfeited to Her Majesty.

(2) An order under this section shall not have effect in respect of any goods released under section thirty-one of this Act.

Order that
expenses
be paid.

33. (1) A court of petty sessions may order that a person specified in the order pay to an inspector specified therein such amount of money as is specified therein, being—

- (a) an amount of money that the court deems to be the reasonable expenses of seizing, forfeiting and disposing of any goods under this Part and, where those goods were submitted by an inspector for analysis under section forty of this Act, the reasonable expenses of that analysis; or

(b) two hundred dollars,

whichever is the lesser amount.

(2)

Therapeutic Goods and Cosmetics.

(2) An order may be made under this section in No. 14, 1972 respect of—

- (a) any goods the forfeiture of which is or was consented to under section thirty-six of this Act; or
- (b) any goods specified in an order under section thirty-two of this Act.

(3) An order made under this section—

- (a) before the commencement of the Courts of Petty Sessions (Civil Claims) Act, 1970, shall operate as an order under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act; or
- (b) after the commencement of the Courts of Petty Sessions (Civil Claims) Act, 1970, shall operate as an order under that Act and be enforceable as such an order under the provisions of that Act.

(4) For the purpose of enforcing an order made under this section before the commencement of the Courts of Petty Sessions (Civil Claims) Act, 1970, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

(5) Any amount paid to an inspector in pursuance of an order under this section shall forthwith be paid by him to such officer of the Public Service as the Under Secretary may specify for payment to the Consolidated Revenue Fund and shall form part of that Fund.

34. (1) Where the regulations provide for the manner of making an application for an order under section thirty-two or thirty-three of this Act in any case or class of cases, the order shall be applied for in that manner. Making of orders under this Part.

(2)

Therapeutic Goods and Cosmetics.

No. 14, 1972 (2) Before a court makes an order under section thirty-two or thirty-three of this Act, the court may require such notice as it thinks fit to be given to such persons as it thinks fit.

Storage of and interference with seized goods. 35. (1) Subject to any direction of the Under Secretary, goods seized under this Part may, at the option of the inspector who seized them, be—

(a) kept or stored on the premises on which they were seized; or

(b) taken to such other place as the inspector who seized them thinks fit to be kept or stored,

until released or disposed of under this Part.

(2) A person shall not remove, alter or interfere in any way with goods seized under this Part without the authority of an inspector or the Under Secretary.

Forfeiture of goods with consent. 36. Where an inspector has seized any goods under section thirty of this Act and the owner of the goods or the person in whose possession, care, custody or control they were at the time of the seizure consents in writing to their forfeiture, the goods are thereupon forfeited to Her Majesty.

Disposal of forfeited goods. 37. Any goods forfeited to Her Majesty under this Part may be disposed of in such manner as the Under Secretary may, generally or in any particular case or class of cases, direct.

Obstruction of inspector. 38. A person shall not—
 (a) wilfully delay or obstruct an inspector in the exercise of any of the inspector's powers under this Act; or

(b)

Therapeutic Goods and Cosmetics.

- (b) fail to produce any goods, books or documents No. 14, 1972 which he is required to produce under this Act, unless those goods, books or documents are not in his possession, care, custody or control.
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PART VII.

ANALYSIS.

39. (1) The Under Secretary may, by instrument in Analysts. writing published in the Gazette—

- (a) appoint a person to be an analyst for the purposes of this Act; and
(b) revoke any such appointment.

(2) A person may be appointed to be an analyst whether or not he is a member of the Public Service.

(3) As soon as practicable after the prescribed date in each year, the Under Secretary shall cause a list of all persons who are analysts as at that date to be published in the Gazette.

40. (1) An inspector may submit any goods seized under Analysis. paragraph (f) or (g) of subsection two of section thirty of this Act to an analyst for analysis.

(2) Where an analysis has been made by an analyst or under his personal supervision in respect of any goods submitted therefor under subsection one of this section, the analyst may issue a certificate setting out the results of that analysis.

(3) Where a certificate has been issued under subsection two of this section setting out the results of an analysis made in respect of any goods, the owner of the goods or the person in whose possession, care, custody or control they were at the time of their seizure shall, upon payment of the prescribed fee, be entitled to be supplied with a copy of the certificate.

(4)

No. 14, 1972

(4) No person shall, for trade purposes or advertisement, use any analysis made for the purposes of this Act.

PART VIII.

MISCELLANEOUS.

DIVISION 1.—*General.*

Under Secretary may require information as to therapeutic goods or cosmetics. cf. Act No. 31, 1966, s. 35.

41. (1) The Under Secretary may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any therapeutic goods or cosmetics, require that person to furnish, in writing, to the Under Secretary, or such other person as may be specified in the notice, within such time, not being less than fourteen days, as may be so specified therein, such information relating to those goods or cosmetics as may be referred to in the notice.

(2) A notice referred to in subsection one of this section may be served on any person whether or not the goods or cosmetics referred to in the notice are goods or cosmetics in respect of which information has previously been furnished.

(3) Any person on whom a notice referred to in subsection one of this section is served shall comply with the notice within the time specified in the notice.

(4) Any person on whom a notice referred to in subsection one of this section is served shall not, in purported compliance with the notice, knowingly furnish any information that is false or misleading in a material particular.

Selling therapeutic goods by automatic machines prohibited. cf. *Ibid.* s. 36.

42. (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 therapeutic goods; or
- (ii) sell or supply any therapeutic goods by means of any automatic machine;

(b)

Therapeutic Goods and Cosmetics.

- (b) allow, permit or suffer any such automatic machine No. 14, 1972 to be installed on his premises;
- (c) place or allow, permit or suffer to be placed any therapeutic goods 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 therapeutic goods by means of any automatic machine on the premises or under the control of such firstmentioned person.

(2) Any person who contravenes 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 not exceeding two hundred dollars or to imprisonment for a term not exceeding six months, and to a further penalty not exceeding twenty dollars for each day on which the offence is continued after conviction by any court.

43. (1) No person shall sell 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 therapeutic goods.

Hawking,
etc., of
therapeutic
goods.
cf. Act No.
31, 1966,
s. 34.

Penalty: Two hundred dollars.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of therapeutic goods to medical practitioners, pharmacists, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such goods, where the distribution is made to the medical practitioner, pharmacist, dentist or veterinary surgeon personally or by posting a letter or parcel containing the goods addressed to him.

(3) The regulations may make provisions for or with respect to the conditions to be complied with in respect of the free distribution of clinical samples of therapeutic goods, as referred to in subsection two of this section, and, without affecting the generality of the foregoing provisions of this subsection, may provide that any of the prescribed provisions of

Therapeutic Goods and Cosmetics.

No. 14, 1972 of this Act and the regulations shall apply to and in respect of those samples as if their distribution or intended distribution were a sale or intended sale.

Prohibition of sale or supply of certain therapeutic devices.

44. The regulations may prohibit or regulate the sale or supply of a therapeutic device that is of a class of therapeutic devices specified or described in the regulations.

Service of notices, etc.

45. A notice referred to in subsection three of section nineteen, or subsection one of section twenty-one, or subsection one of section forty-one, of this Act, or an order under section twenty-eight of this Act, may be served on a person—

- (a) by delivering it personally to that person;
- (b) by delivering it to the place last known to the Under Secretary as his place of abode or business and by leaving it there with some person for him; or
- (c) by posting it in an envelope duly stamped and addressed to that person at the place last known to the Under Secretary as his place of abode or business.

DIVISION 2.—Regulations and Orders.

Regulations. **46.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to—

- (a) any forms to be used for the purposes of this Act;
- (b) the procedure for the calling of meetings of the Committee and the conduct of business at those meetings;
- (c) prescribing the conditions to be complied with as to the situation and construction of premises used for manufacture or storage of therapeutic goods or cosmetics, securing the sanitation of those premises, and the provision of facilities for protecting those goods from contamination or deterioration;
- (d) prescribing the conditions to be complied with in the manufacture, distribution, conveyance, storage or handling of therapeutic goods or cosmetics;

(e)

Therapeutic Goods and Cosmetics.

- (e) methods of analysis of therapeutic goods or cosmetics to determine conformity with standards; No. 14, 1972
- (f) the delivery up of licenses issued under this Act, and the issue of substitute or duplicate licenses;
- (g) requiring persons engaged in the manufacture, distribution, conveyance, storage, handling or sale of therapeutic goods or cosmetics to keep records;
- (h) the procedure to be adopted by an inspector when seizing and removing for analysis portions or samples of goods under section thirty of this Act; and
- (i) all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding four hundred dollars for an offence against the regulations.

(3) A regulation shall not be made, altered or repealed—

- (a) unless the Committee has recommended, under subsection one of section ten of this Act, that the regulation be so made, altered or repealed; or
- (b) where the Committee has not made such a recommendation—unless the Minister has, under subsection two of section ten of this Act, referred to the Committee the proposal for the making, alteration or repeal of the regulation and—
- (i) he has taken into consideration the advice upon the proposal duly given by the Committee to him; or
- (ii) the Committee has failed to give any advice to the Minister upon the proposal within one month after the reference or any further period allowed under that subsection.

47. (1) Regulations and orders under this Act may be made so as to differ according to time, place and circumstances.

(2) Provisions applicable to regulations and orders.

Therapeutic Goods and Cosmetics.

No. 14, 1972

(2) A regulation or order under this Act may authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified therein.

(3) Any goods may be specified or described in a regulation or order under this Act by reference to any act, matter or thing specified or described in the regulation or order, and, without affecting the generality of the foregoing provisions of this subsection, may be specified or described by reference to any one or more of the following :—

- (a) the common or scientific name of the goods;
- (b) any class of goods;
- (c) the composition of the goods;
- (d) the use or intended use of the goods;
- (e) the purpose for which the goods may be used;
- (f) any dealing or proposed dealing in respect of the goods; or
- (g) the manner in which the goods are packed.

(4) A regulation or order under this Act may be made so as to apply to or in respect of—

- (a) any matter, or all matters, or any class of matters, specified or described in the regulation or order; or
- (b) all matters, or any class of matters, so specified or described other than—
 - (i) any matter so specified or described that is expressed to be excluded; or
 - (ii) any class of matters so specified or described that is expressed to be excluded.

(5) Where any provision of this Act authorises any matter to be prescribed or to be specified or described in any regulation or order under this Act, the provisions of subsection four of this section apply, without affecting the generality of that subsection, to a regulation or order prescribing or specifying or describing that matter.

(6)

Therapeutic Goods and Cosmetics.

(6) In subsections four and five of this section, No. 14, 1972 "matter" means goods, representation or act, or any other matter or thing.

DIVISION 3.—*Offences and Legal Proceedings.*

48. A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act. Offences.

49. A person who is guilty of an offence against this Act for which no other penalty is expressly provided shall be liable to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. Penalties.

50. Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions. Proceedings for offences.

51. The jurisdiction conferred on a court of petty sessions by any provision of this Act shall not be exercised except by a court of petty sessions held before a stipendiary magistrate. Jurisdiction of court of petty sessions.

52. (1) A person aggrieved— Appeal to District Court judge in certain cases.

(a) by a decision of the Under Secretary under Division 2 of Part III of this Act; or

(b) by an order made by the Under Secretary under section twenty-eight of this Act,

may, in the manner prescribed by rules of court and within the time so prescribed, appeal against the decision or order to a District Court judge having jurisdiction in the district where that person resides or carries on business or proposes to carry on business.

(2) An appeal under this section shall not be entertained unless at least ten days' notice, in writing, of the appeal has been given to the Under Secretary.

(3) The judge to whom an appeal under this section is made may confirm the decision or order appealed against or give such directions in the matter as seem proper or otherwise determine the matter.

(4)

Therapeutic Goods and Cosmetics.

No. 14 1972 (4) The decision of the judge upon the appeal shall be final, and shall be binding upon the Under Secretary and the appellant, and shall be carried into effect accordingly.

Evidence. **53.** (1) In any legal proceedings under this Act, a certificate purporting to be signed by the Under Secretary and to certify that—

(a) a person specified therein was or was not the holder of a license under this Act;

(b) a person specified therein was an analyst;

(c) a person specified therein was an inspector,

on any day, or during any period, specified therein shall be admissible in evidence and shall be prima facie evidence of the fact so certified.

(2) In any legal proceedings under this Act, a certificate purporting to be signed by an inspector and to certify that any matter specified therein is a copy of, or extract from, any book or document, made or taken by him under this Act shall be admissible in evidence without production of the book or document.

(3) In any legal proceedings under this Act, a certificate purporting to be signed by an analyst and setting out the results of an analysis of any goods under section forty of this Act shall be prima facie evidence of the identity of the goods analysed, of the result of the analysis and that the analysis was carried out in such manner as may be specified therein.

Offence by employer where employee has committed offence. **54.** (1) Where any person, as the employee of another person, who is in this section referred to as "the employer", contravenes this Act or the regulations or is guilty of an offence against this Act or the regulations, the employer is guilty of an offence against this Act or, as the case may be, against the regulations if it is proved that he knowingly and wilfully authorised or permitted that contravention or offence by the employee or that he failed to exercise due diligence to prevent such a contravention or the commission of such an offence.

(2)

Therapeutic Goods and Cosmetics.

(2) The employer may be proceeded against and convicted pursuant to subsection one of this section whether or not the employee has been proceeded against or been convicted under this Act. No. 14, 1972

(3) Nothing in subsection one of this section shall prejudice or affect any liability imposed by or under this Act on any person by whom an offence against this Act or the regulations is actually committed.

55. Where a company is convicted of an offence against this Act or the regulations, every director and every officer concerned in the management of the company shall be guilty of the like offence if he knowingly and wilfully authorised or permitted the commission of the offence. Offences by companies.

PART IX.

AMENDMENT OF ACTS.

56. (1) The Pure Food Act, 1908, is amended— Amendment of Act No. 31, 1908.

(a) by omitting from the long title the words “and drugs”; Long title.

(b) (i) by omitting the definition of “Appliance” in subsection one of section four and by inserting in lieu thereof the following definition :— Sec. 4. (Interpretation.)

“Appliance” means the whole or any part of any utensil, machinery, instrument, apparatus or article used or intended for use in or for the making, manufacturing, keeping, preserving, preparing, handling, serving, or supplying of any food or which in the course of such use may come into contact with any food.

(ii) by omitting the definition of “Drug” in the same subsection;

(c)

Therapeutic Goods and Cosmetics.

- No. 14, 1972
Sec. 5.
(Adultera-
tion or false
description.)
- (c) (i) by omitting from section five the words "or a drug" wherever occurring;
- (ii) by omitting from paragraph (k) of the same section the words "morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein, or any other";
- (iii) by omitting from the same section the words "or drug" wherever occurring;
- (iv) by omitting from the same section the words "or drugs";
- Sec. 6.
(Advisory
committee.)
- (d) by omitting from subsection one of section six the words "a representative of the Pharmacy Board;"
- Sec. 10.
(Adulterated
food.)
- (e) (i) by omitting from the short heading to section ten the words "*and drugs*";
- (ii) by omitting from the same section the words "or any drug";
- Sec. 10A.
(Tender or
despatch of
food, etc.,
adulterated
or falsely
described.)
- (f) by omitting from section 10A the word and symbols ", drug,";
- Sec. 11.
(Mixing
food so
as to be
injurious to
health.)
- (g) (i) by omitting from paragraph (a) of subsection one of section eleven the word "or" where lastly occurring;
- (ii) by omitting paragraph (b) of the same subsection;
- (iii) by omitting from subsection two of the same section the words "or drug" wherever occurring;
- (iv)

Therapeutic Goods and Cosmetics.

- (iv) by omitting from the same subsection the No. 14, 1972 words "or potency";
- (h) (i) by omitting from section twelve the words "or drug" wherever occurring; Sec. 12.
(Mixing or selling food to increase bulk.)
- (ii) by omitting from subsection three of the same section the words "or the drug,";
- (iii) by omitting subsection four of the same section;
- (i) (i) by omitting from section thirteen the words "or drug" wherever occurring; Sec. 13.
(Sale of mixture.)
- (ii) by omitting from subsection one of the same section the words "when the mixture is a food,";
- (iii) by omitting from paragraph (a) of the proviso to the same subsection the words "or a drug" where firstly occurring;
- (iv) by omitting from the same paragraph the words "or a drug not recognised by the British Pharmacopoeia";
- (v) by omitting paragraph (b) of the same proviso;
- (vi) by omitting from paragraph (c) of the same proviso the word "or";
- (vii) by omitting paragraph (d) of the same proviso;
- (j) (i) by omitting from the short heading to section fourteen the words "*or drug*"; Sec. 14.
(Packages to be labelled with description, weight &c., of contents.)
- (ii)

*Therapeutic Goods and Cosmetics.***No. 14, 1972**

(ii) by omitting from subsection one of the same section the words "or drug" wherever occurring;

(iii) by omitting from the same subsection the following words :—

No person shall, after the expiration of six months from the commencement of the Pure Food (Amendment) Act, 1944, sell in a package any drug unless such a statement or label is written on or attached to such package as required by this section.

Nothing in this subsection shall apply to any package of drug where such drug is supplied by prescription or order signed by a legally qualified medical practitioner for any person then under his care and treatment.

(iv) by omitting from subsection three of the same section the words "or drugs";

Sec. 15.
(Liability of person named on package.)

(k) by omitting from section fifteen the words "or drug" wherever occurring;

Sec. 16.
(Examination and report upon food and appliances advertised.)

(l) by omitting from subsection one of section sixteen the word and symbols ", drug," wherever occurring;

Sec. 17.
(Prohibition of sale of injurious appliances.)

(m) (i) by omitting from section seventeen the words "or drug" wherever occurring;

(ii) by omitting subsection three of the same section;

Sec. 17A.
(Board may require information concerning advertised food.)

(n) (i) by omitting from paragraph (a) of section 17A the words "or drug has nutritional properties or is of use for curative purposes,

or

Therapeutic Goods and Cosmetics.

- or in relieving human suffering, or in overcoming or alleviating any physical defect, or” and by inserting in lieu thereof the words “has nutritional properties;”
- (ii) by omitting paragraph (b) of the same section;
- (iii) by omitting from the same section the words “drug, or appliance or the specifications of the appliance”;
- (iv) by omitting from the same section the words “to the food, drug, or appliance” and by inserting in lieu thereof the word “thereto”;
- (v) by omitting from the same section the words “, drug, or appliance” where thirdly occurring;
- (vi) by omitting from the same section the words “, drug or appliance”;
- (o) (i) by omitting from the short heading to section twenty-two the word and symbols “, *drugs*,”; (ii) by omitting from the same section the words “or drug” wherever occurring; (iii) by omitting paragraph (b) of subsection seven of the same section; (iv) by omitting from subsection eight of the same section the words “; and the presence of drugs in any place shall be evidence that such drugs were intended to be sold or used”;
- (p) by omitting from section twenty-three the words “or drug” wherever occurring;
- (q)

No. 14, 1972

Sec. 22.
(Entry and inspection of place and animals or articles therein.)

Sec. 23.
(Power to demand, select, and take samples.)

Therapeutic Goods and Cosmetics.

- No. 14, 1972**
- Sec. 24.
(Manner in which sample may be dealt with.)
- Sec. 25.
(Forwarding of sample by post.)
- Sec. 26.
(Councils to submit samples for analysis.)
- Sec. 29.
(Certificate of analyst to be evidence.)
- Sec. 30.
(Certificate of analysis.)
- Sec. 33.
(Costs of analysis.)
- Sec. 34.
(Copy of result of analysis.)
- Sec. 37.
(Interference with official marks or seals.)
- Sec. 38.
(Obstruction of officer in discharge of his duties.)
- (q) by omitting from section twenty-four the words "or drug" wherever occurring;
- (r) by omitting from section twenty-five the words "or drug";
- (s) by omitting from section twenty-six the words "or drugs";
- (t) by omitting from section twenty-nine the word and symbols ", drug," wherever occurring;
- (u) by omitting from section thirty the word and symbols ", drug,";
- (v) (i) by omitting from subsection one of section thirty-three the word and symbols ", drug,";
- (ii) by omitting from the same subsection the words "or drug";
- (w) by omitting from section thirty-four the word and symbols ", drug," wherever occurring;
- (x) by omitting from section thirty-seven the word and symbol "drug,";
- (y) by omitting from paragraph (d) of section thirty-eight the word and symbols ", drug,";
- (z)

Therapeutic Goods and Cosmetics.

- (z) by omitting from subsection one of section thirty-nine the word and symbols “, drug,”; No. 14, 1972
Sec. 39.
(Forfeiture of food or article.)
- (aa) by omitting from section 39A the word and symbol “, drug” wherever occurring; Sec. 39A.
(Power to prohibit carrying on of business by persons convicted of offence against Act or regulations.)
- (bb) by omitting from section forty-one the word and symbols “, drug,”; Sec. 41.
(Limit of time for prosecutions.)
- (cc) by omitting from section forty-two the word and symbols “, drug,”; Sec. 42.
(Return day of summons.)
- (dd) by omitting from section forty-three the word and symbols “, drug,”; Sec. 43.
(Copy of analyst’s certificate.)
- (ee) by omitting from section forty-four the words “or drug”; Sec. 44.
(Possession prima facie evidence of contravention of Act.)
- (ff) by omitting from section forty-six the words “or drug”; Sec. 46.
(Onus of proof.)
- (gg) by omitting from section forty-seven the words “, or drug,” wherever occurring; Sec. 47.
(Guarantee, when a defence.)
- (hh) by omitting from section forty-eight the word and symbols “, drug,” wherever occurring; Sec. 48.
(Agent or servant liable in addition to principal.)
- (ii)

Therapeutic Goods and Cosmetics.

- No. 14, 1972
Sec. 49.
(Agent or servant may recover from principal.)
- (ii) by omitting from subsection one of section forty-nine the word and symbols “, drug,” wherever occurring;
- Sec. 50.
(Prosecution of employee for selling adulterated article.)
- (jj) by omitting from section fifty the word and symbols “, drug,” wherever occurring;
- Sec. 51.
(Power to require information to be made available.)
- (kk) by omitting from subsection one of section fifty-one the word and symbols “, drug,” wherever occurring;
- Sec. 51A.
(Power to close dirty food stores, etc.)
- (ll) by omitting from section 51A the words “or drug” wherever occurring;
- Sec. 52.
(Suggestive names for articles of food.)
- (mm) by omitting from section fifty-two the words “or drug” wherever occurring;
- Sec. 53.
(Publication of names of offenders.)
- (nn) by omitting from section fifty-three the word and symbols “, drug,” wherever occurring;
- Sec. 54.
(Regulations made on recommendation of advisory committee.)
- (oo) (i) by omitting from subsection one of section fifty-four the words “or drug” wherever occurring;
- (ii) by omitting from the same subsection the words “analysing any food, drug, or article” and by inserting in lieu thereof the words “analysing any food or article”;

(iii)

Therapeutic Goods and Cosmetics.

- (iii) by omitting from the same subsection the words "or drugs";
- (iv) by omitting from the same subsection the words "adulteration of any food, drug, or article" and by inserting in lieu thereof the words "adulteration of any food or article";
- (v) by omitting from the same subsection the words "delivery of any food, drug, or article" and by inserting in lieu thereof the words "delivery of any food or article";
- (vi) by omitting from the same subsection the words "packing of any food, drug or article" and by inserting in lieu thereof the words "packing of any food or article".

(2) The Pure Food Act, 1908, is further amended—

- (a) by omitting the short heading appearing next before section eighteen and by inserting in lieu thereof the following short heading :—

Preservatives.

- (b) by omitting from subsection one of section eighteen the words "disinfectant, germicide, antiseptic, or";
- (c) by omitting from subsection one of section nineteen the words "disinfectant, germicide, antiseptic or";
- (d) by omitting section 19A.

Further amendment of Act No. 31, 1908.

Subst. short heading before sec. 18.

Sec. 18. (Prohibition of sale of preservatives.)

Sec. 19. (Labelling of preservatives.)

Sec. 19A. (Packing of disinfectant or poisonous substance.)

(3) The provisions of the Pure Food Act, 1908, as enacted before the commencement of this section, shall continue to apply to and in respect of any drugs (within the meaning of that Act, as so enacted) in respect of which any offence

Therapeutic Goods and Cosmetics.

No. 14, 1972 offence was committed against that Act or the regulations under that Act before that commencement, in the same manner as if that Act had not been amended by this Act.

(4) Nothing in subsection three of this section affects any savings effected by the Interpretation Act, 1897.

(5) The person appointed as a member of the advisory committee under the Pure Food Act, 1908, in his capacity as a representative of the Pharmacy Board and holding office as such immediately before the commencement of this section shall, subject to that Act, be entitled to continue in office as such member until the expiration of the period for which he could have acted as such had this Act not been enacted, but shall not be eligible for reappointment in that capacity.

Amendment
of Act No.
37, 1938.

Sec. 46.

(Publication
of advertise-
ments con-
taining
false state-
ments
concerning
medicines,
etc.)

Amendment
of Act No.
48, 1964.

Sec. 31.

(Automatic
vending
machines
for sale of
drugs, etc.,
prohibited.)

Amendment
of Act No.
31, 1966.

Sec. 4.
(Interpreta-
tion.)

57. The Medical Practitioners Act, 1938, is amended by omitting section forty-six.

58. The Pharmacy Act, 1964, is amended by omitting section thirty-one.

59. (1) The Poisons Act, 1966, is amended—

(a) (i) by omitting from paragraph (b) of the definition of "Therapeutic use" in subsection one of section four the word "or" where thirdly occurring;

(ii)

Therapeutic Goods and Cosmetics.

- (ii) by inserting at the end of paragraph (c) of the No. 14, 1972 same definition the following word and new paragraph :—

; or

- (d) destroying or inhibiting micro-organisms that may be harmful to man or animal;

- (b) (i) by omitting from subsection one of section thirty-four the words “specified in any Schedule of the Poisons List” and by inserting in lieu thereof the words “to which this section applies”;

Sec. 34.
(Hawking,
etc., of
poisons.)

- (ii) by omitting from subsection two of the same section the words “specified in any Schedule (Schedule Eight excepted) of the Poisons List” and by inserting in lieu thereof the words “to which this section applies (other than a substance specified in Schedule Eight of the Poisons List)”;

- (iii) by inserting at the end of the same section the following new subsection :—

(3) This section applies to any substance that is specified in any Schedule of the Poisons List, but does not apply to any therapeutic goods within the meaning of the Therapeutic Goods and Cosmetics Act, 1972.

- (c) (i) by omitting from subparagraph (i) of paragraph (a) of subsection one of section thirty-six the words “specified in any Schedule of the Poisons List” and by inserting in lieu thereof the words “to which this section applies”;

Sec. 36.
(Selling
poisons,
etc., by
automatic
machines
prohibited.)

- (ii) by omitting from subparagraph (ii) of the same paragraph the words “substance so specified” and by inserting in lieu thereof the words “any such substance”;

(iii)

Therapeutic Goods and Cosmetics.

No. 14, 1972

(iii) by inserting at the end of the same section the following new subsection :—

(3) This section applies to any substance specified in any Schedule of the Poisons List, but does not apply to any therapeutic goods within the meaning of the Therapeutic Goods and Cosmetics Act, 1972.

Sec. 40.
(Proof of
certificate of
an analyst.)

(d) by omitting from subsection three of section forty the words “appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts” and by inserting in lieu thereof the words “who is an analyst within the meaning of the Therapeutic Goods and Cosmetics Act, 1972”.

(2) Where a person appointed by the Governor as an analyst under the Pure Food Act, 1908, has given a certificate of the result of an analysis under section forty of the Poisons Act, 1966, before the commencement of this section the provisions of subsection two of the said section forty shall continue to apply to and in respect of that certificate and that result as if the said section forty had not been amended by this section.

AMBULANCE