

POISONS (AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 53, 1970.

An Act to increase the membership of the Poisons Advisory Committee constituted under the Poisons Act, 1966; to increase the penalties for certain offences under that Act; for these and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 26th October, 1970.]

BE

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No. 53, 1970 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement. **1.** (1) This Act may be cited as the "Poisons (Amendment) Act, 1970".

(2) Paragraph (b) of subsection one of section two of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 31, 1966. **2.** (1) The Poisons Act, 1966, is amended—

Sec. 4. (Interpretation.) (a) (i) by omitting from the definition of "Pharmacist" in subsection one of section four the word "practising";

(ii) by omitting from the same subsection the definition of "Pharmacy trainee" and by inserting in lieu thereof the following definition:—

"Pharmacy trainee" means—

(a) a person who—

(i) were he to have served as an assistant, as referred to in paragraph (b) of subsection one of section thirteen of the Pharmacy Act, 1964, and to have had the experience referred to in paragraph (c) of that subsection; or

(ii)

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- (ii) were he to have had the No. 53, 1970 experience referred to in section fourteen, or paragraph (d) of section fifteen, of that Act,

would be entitled to be registered under that Act as a pharmacist; and

- (b) a person who has passed the examination, and served as an apprentice, as referred to in paragraph (a) of section sixteen of the Pharmacy Act, 1964, for a period of not less than three years or in respect of whom the Pharmacy Board of New South Wales constituted under that Act has accepted a course of training referred to in the proviso to that paragraph,

but does not include a pharmacist.

- (iii) by inserting in the same subsection after the definition of "Substance" the following new definition :—

"Supply" includes agreeing to supply, or offering to supply, or keeping or having in possession for supply or sending, forwarding, delivering or receiving for supply, or authorising, directing, causing, suffering, permitting or attempting any of such acts or things and the derivations of "supply" have corresponding interpretations.

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- (iv) by omitting from the same subsection the definition of "Therapeutic use" and by inserting in lieu thereof the following definition :—

"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; or
- (c) testing the susceptibility of a man or animal to a disease or ailment.

Sec. 6.
(Poisons
Advisory
Commit-
tee.)

- (b) (i) by omitting from subsection one of section six the word "fourteen" and by inserting in lieu thereof the word "fifteen";
- (ii) by omitting from paragraph (d) of subsection two of the same section the word "School" and by inserting in lieu thereof the word "Department";
- (iii) by omitting from paragraph (e) of the same subsection the word "School" and by inserting in lieu thereof the word "Department";
- (iv) by omitting from paragraph (g) of the same subsection the word "eight" and by inserting in lieu thereof the word "nine";
- (v) by omitting subparagraph (vii) of the same paragraph and by inserting in lieu thereof the following subparagraph :—
- (vii) one shall be a representative of the Country Division of The Retail Traders' Association of New South Wales;

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- (vi) by inserting at the end of subparagraph (viii) of the same paragraph the following word and new subparagraph :—
- ; and
- (ix) one shall be a dentist representative of the Australian Dental Association (New South Wales Branch).
- (c) by omitting from the matter under the heading "*Schedule Three (Potent Substances)*." in subsection two of section eight the words "self-medication is unlikely; and" and by inserting in lieu thereof the words "medication is unlikely; or";
- (d) by inserting next after section nine the following new section :—
- 9A. A person shall not knowingly by any false representation (whether verbal, in writing, or by conduct) obtain or attempt to obtain from a medical practitioner, pharmacist, dentist, veterinary surgeon or the holder of a license issued under section ten of this Act or from any other person any substance specified in Schedule One, Two, Three or Four of the Poisons List.
- (e) by inserting in subsection one of section ten after the words "The Under Secretary" the words ", or such other person as may from time to time be nominated by him for the purpose,";
- (f) (i) by inserting in subparagraph (i) of paragraph (a) of subsection three of section sixteen after the word "obtain" the words "or attempt to obtain";
- (ii) by inserting in subparagraph (ii) of the same paragraph after the word "induce" the words "or attempt to induce";
- (iii) by inserting at the end of the same subparagraph the word "or";
- (iv)

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Sec. 8.

(Poisons list.)

New sec. 9A.

Offence of obtaining Schedule One, Two, Three or Four substances by false representation.

Sec. 10.

(Licenses to sell poisons.)

Sec. 16.

(Offences relating to prescribed restricted substances.)

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(iv) by omitting from paragraph (b) of the same subsection the word "or" where lastly occurring;

(v) by omitting paragraph (c) of the same subsection;

Sec. 17.
(Regulations under Part III.)

(g) by inserting next after paragraph (j) of subsection one of section seventeen the following new paragraph :—

(j1) prohibiting or regulating the administering, otherwise than on the order of a medical practitioner or dentist, of any restricted substance prescribed for the purposes of section sixteen of this Act;

New sec.
18A.

(h) by inserting next after section eighteen the following new section :—

Penalty for supplying or selling certain restricted substances.

18A. (1) Subject to the provisions of this Act, except section eighteen, a person who supplies or sells any restricted substance prescribed for the purposes of section sixteen of this Act contrary to the provisions of this Part or the regulations made under this Part shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two thousand dollars, or to imprisonment for a term not exceeding two years, or to both such penalty and imprisonment.

(2) A person who has in his possession a quantity of any restricted substance referred to in subsection one of this section in excess of the quantity prescribed in respect of that substance for the purposes of this subsection shall, for the purposes of any proceedings for an offence arising under subsection one of this section, be deemed to have that substance in his possession for supply or sale, unless—

(a) the defendant proves the contrary; or

(b)

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- (b) the defendant proves that he obtained possession of that substance on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon. No. 53, 1970
- (i) by omitting from section twenty the definition of "Indian hemp" and by inserting in lieu thereof the following definition :— Sec. 20.
(Interpretation.)

"Indian hemp" means—

- (a) any plant or part of a plant of the genus cannabis;
- (b) the resin, whether crude or purified, obtained from any plant or part of a plant of the genus cannabis; or
- (c) any preparation containing any such resin,

by whatever name that plant, part, resin or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of any such plant from which the resin has been extracted.

- (j) (i) by inserting in paragraph (a) of subsection one of section twenty-one after the word "manufactures," the word "supplies,"; Sec. 21.
(Offences relating to prepared opium and other drugs of addiction.)
- (ii) by inserting in paragraph (c) of subsection two of the same section after the word "regulations" the words "or was supplied or requested to be supplied by a dentist for the use in dental treatment, for a period not exceeding one month, of a patient in a hospital";

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(iii) by inserting next after the same subsection the following new subsection :—

(2A) Any person who supplies or sells any drug of addiction other than prepared opium or Indian hemp shall be guilty of an offence against this Division unless—

- (a) he is licensed or otherwise authorised under the regulations to supply and sell the drug; or
- (b) he is a medical practitioner, dentist or veterinary surgeon and supplies or sells the drug for therapeutic use in the course of the practice of his profession.

Sec. 24.
(Regulations.)

(k) (i) by inserting in paragraph (c) of subsection one of section twenty-four after the words “medical practitioners” the word “, dentists”;

(ii) by inserting in paragraph (d) of the same subsection after the words “medical practitioners” the word “, dentists”;

(iii) by inserting next after paragraph (h) of the same subsection the following new paragraph :—

(h1) prohibiting or regulating the administering, otherwise than on the order of a medical practitioner or dentist, of any drug of addiction;

(iv) by inserting next after subsection two of the same section the following new subsection :—

(2A) The regulations may provide that a reference in paragraph (d), (e) or (f) of subsection two of this section to the Under Secretary shall include a reference to an officer of the Public Service holding an office in the Department of Public Health, being an office specified in the regulations.

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- (l) (i) by inserting in paragraph (a) of section No. 53, 1970 twenty-eight after the words "drug of addiction" the words "(not being a drug of addiction that may be prescribed or supplied in accordance with paragraph (c) of this section)"; Sec. 28. (Prohibition on prescribing drugs of addiction in certain cases.)
- (ii) by omitting from the same paragraph the word "or" where lastly occurring;
- (iii) by omitting from paragraph (b) of the same section the word "addiction," and by inserting in lieu thereof the following words and new paragraph :—
- addiction (not being a drug of addiction that may be prescribed or supplied in accordance with paragraph (c) of this section); or
- (c) any person any drug of addiction prescribed for the purposes of this paragraph, except as may be authorised by the regulations,
- (m) by inserting at the end of section thirty the following new subsection :— Sec. 30. (Medical Committee.)
- (5) A member of the Medical Committee shall, if he is not a member of the Public Service, be paid such fees as may be approved by the Governor.
- (n) by omitting section forty-five and by inserting in lieu thereof the following sections :— Subst. sec. 45 and new secs. 45A and 45B.
45. Any proceedings for an offence against this Act or the regulations may be taken before a stipendiary magistrate or any two justices in petty sessions. Proceedings for offences.
- 45A. (1) This section applies to the following offences :— Certain offences punishable on indictment.
- (a) the offence of supplying or selling prepared opium or Indian hemp that arises under subsection one of section twenty-one of this Act;

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(b) the offence of supplying or selling any drug of addiction other than prepared opium or Indian hemp that arises under subsection (2A) of that section; and

(c) the offence of supplying or selling any prohibited drug that arises under subsection one of section thirty-two of this Act.

(2) Without limiting the operation of any other provision of this Act, an offence to which this section applies may be prosecuted on indictment.

(3) A person convicted on indictment of an offence to which this section applies shall be liable to imprisonment for a period not exceeding ten years.

(4) A person who has in his possession a quantity of any drug of addiction, prohibited drug or addictive or prohibited substance in excess of the quantity prescribed in respect of that drug, in respect of addictive or prohibited substances generally or in respect of any such substance for the purposes of this subsection shall, for the purposes of any proceedings for an offence to which this section applies, be deemed to have that drug or substance in his possession for supply or sale, unless—

(a) the defendant proves the contrary; or

(b) except where that drug is, or that substance contains, prepared opium, Indian hemp or a prohibited drug, the defendant proves that he obtained possession of that drug or substance on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.

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(5) In subsection four of this section, No. 53, 1970
 “addictive or prohibited substance” means any
 substance that contains any drug of addiction or
 prohibited drug.

45B. An information for an offence under Part ^{Time for}
 III or Part IV of this Act or the regulations made ^{laying}
 under either such Part may be laid at any time ^{information}
 within two years after the commission of the ^{or com-}
 offence. ^{plaint.}

(2) The member of the Committee first appointed
 pursuant to subparagraph (ix) of paragraph (g) of subsec-
 tion two of section six of the Poisons Act, 1966 (as inserted
 by subparagraph (vi) of paragraph (b) of subsection one of
 this section) shall, subject to that Act, hold office as such a
 member until the expiration of the terms of office of the
 other appointed members of the Committee who hold office
 at the time when that firstmentioned member takes office as
 a member of the Committee, and shall, if otherwise qualified,
 be eligible for reappointment.