

Poisons (Amendment) Bill, 1935.

EXPLANATORY NOTE.

THE object of the Bill is to provide that greater care shall be exercised in the matter of handling and disposing of poisons.

The Bill confers authority to make regulations to require that persons who are engaged in the sale, distribution, and supply of poisons, or who use poisons for purposes to be specified in the regulations, shall be licensed or authorised; to prescribe the conditions under which poisons may be sold, distributed, supplied, obtained or kept, or under which poisons may be used for such specified purposes, and conditions as to packing and labelling; and to regulate the issue and dispensing of prescriptions for poisons and the supply of poisons on orders.

The authority to make regulations is such that it will be possible to impose different restrictions in respect of different classes of poisons and to require that the more dangerous poisons, such as cyanide, will be sold only after due inquiry and on the witnessed signature of the purchaser.

The Bill also confers authority to amend or rearrange the Second Schedule (poisons) by proclamation; and provides for the constitution of an advisory committee to advise the Minister upon certain proposals for the making, altering or repealing of regulations or for the amendment of the Schedule.

The Bill also provides for penalties for any breach of the regulations and for the appointment of inspectors for the purpose of seeing that the Act and regulations are complied with, and for the proof by certificate of analyses made by analysts appointed under the Pure Food Act, 1908, in legal proceedings under the Poisons Act, 1902-1935, or the regulations made thereunder.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

A BILL

To make further provision for regulating the supply, colouring, labelling, and custody of poisons and the use of poisons for specified purposes; to amend the Poisons Act, 1902, the Pharmacy Act, 1897, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King'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:—

1. (1) This Act may be cited as the "Poisons (Amendment) Act, 1935," and shall commence on a day to be appointed by the Governor, and notified by proclamation published in the Gazette. Short title and commencement.

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(2) The Poisons Act, 1902, as amended by this Act, may be cited as the Poisons Act, 1902-1935.

2. The Poisons Act, 1902, is amended—

Amendment of
Act No. 65,
1902.

(a) by inserting at the end of section three the following new paragraphs:—

Sec. 3.
(Definition
of poison.)

Such proclamation shall amend the Second Schedule by adding the name of such substance or preparation to one of the parts thereof.

The Governor may, in like manner, at any time amend the Second Schedule by removing the name of any poison from one of the parts thereof and adding the same to any other part thereof, or by adding thereto or removing therefrom the name of any substance.

The Second Schedule, as so amended, shall be deemed to be the Second Schedule to this Act.

Any proclamation made under this section shall—

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

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

(b)

(b) (i) by omitting from subsection one of section four the words "Nothing in this Act shall" and by inserting in lieu thereof the words "Except to the extent provided by subsection two of this section this Act shall not";

Sec. 4.
(Application of Act.)

(ii) by omitting paragraphs (b), (c) and (e) of the same subsection;

(iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—

(2) The provisions of sections twelve and thirteen of this Act and of any regulation made under this Act relating to any of the matters referred to in section twelve of this Act shall apply to and in respect of any such medicine made up, compounded, or dispensed for external application.

(c) by omitting section five;

Sec. 5.
(Certificate to deal in poisons.)

(d) by omitting from subsection two of section six the words "of the Fourth Schedule hereto," and by inserting in lieu thereof the words "prescribed by regulations made under this Act";

Sec. 6.
(Sale of poisons to be entered.)

(e) by omitting section ten;

Sec. 10.
(Sales of poison for destruction of vermin.)

(f) (i) by omitting from subsection one of section thirteen the words "is herein provided shall be liable to a penalty not exceeding twenty pounds" and by inserting in lieu thereof the words "is provided by this Act or the regulations made thereunder shall be liable, where no other penalty is provided, to a penalty not exceeding *one hundred* pounds";

Sec. 13.
(Penalties.)

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

(3) Any penalty imposed by this Act or by the regulations made thereunder may be recovered

recovered in a summary manner before a stipendiary or police magistrate or any two justices in a court of petty sessions.

- (g) by inserting at the end of the Second Schedule the following new parts:— Second Schedule.

THIRD PART.

- Ammonia.
- Carbolic Acid.
- Formaldehyde.
- Hydrochloric Acid.
- Nitric Acid.
- Sulphuric Acid.

FOURTH PART.

- Adrenals, extracts and preparations of.
- Any serum or vaccine for human use.
- Pituitary Extract.
- Preparation of the specific anti-diabetic principle of the pancreas known as insulin.

- (h) by omitting the Third Schedule and the Fourth Schedule. Third and Fourth Schedules.

3. (1) The Poisons Act, 1902, is further amended by omitting section fourteen and by inserting in lieu thereof the following new section:— Further amendment of Act No. 65, 1902. Substituted s. 14.

14. (1) The Governor may make regulations not inconsistent with this Act, prescribing 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 the provisions of this Act and, in particular, and without limiting the generality of the foregoing power, the Governor may, by the regulations— Regulations.

- (a) require persons who are engaged in the manufacture, sale, distribution, or supply of poisons or who use poisons for purposes specified in the regulations, to be licensed or authorised;
- (b) prohibit the manufacture, sale, distribution, supply, or possession of poisons or the use of poisons for purposes specified in the regulations except by persons licensed under the Act or authorised by the regulations;

(c)

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- (c) make all provisions necessary or convenient in connection with the issue of licenses for the manufacture, sale, distribution, or supply of poisons or for the use of poisons for purposes specified in the regulations; define the period for which any such license shall remain in force, and make provisions with respect to the renewal thereof, and the circumstances under which a license may be cancelled or withdrawn;
 - (d) prescribe forms to be used and the fees to be paid for any license;
 - (e) prescribe the conditions under which poisons shall be manufactured, sold, distributed, supplied, obtained, or kept, or under which poisons may be used for purposes specified in the regulations, and the conditions as to packing and labelling of poisons to be complied with when any poison is sent, carried, delivered, held, or stored by any person;
 - (f) prescribe the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural or horticultural purposes or as a vermicide which contains a poison, shall be exempt from the operation of the provisions of this Act or the regulations;
 - (g) require persons who are engaged in the manufacture, sale, distribution, or supply of poisons or who use poisons for purposes specified in the regulations, to keep such books and records and furnish such information either in writing or otherwise, as may be prescribed, and make provision for the inspection of such books and records by prescribed persons, and for the taking of extracts from or copies of such books and records by such persons;
 - (h) regulate the issue of prescriptions or orders for poisons, the dispensing of such prescriptions and the supply of poisons on such prescriptions or orders, and require that a record

record of such prescriptions or orders shall be kept by the person dispensing the prescriptions or supplying the poisons;

- (i) prescribing that only a legally qualified medical practitioner, a registered dentist, or a registered veterinary surgeon may issue prescriptions or orders for any poisons specified in the regulations for the purposes of medical treatment, dental treatment, and animal treatment respectively;
- (j) provide, in addition to a penalty, for the forfeiture of any poison unlawfully in the possession or under the control of any person and for the disposal of any poison so forfeited;
- (k) define the duties of inspectors;
- (l) prescribe the form of the certificate to be given by an analyst analysing any poison or substance.

(2) The regulations may impose a penalty Penalty. not exceeding *one hundred* pounds for any breach thereof, or in the case of a continuing breach, a penalty not exceeding *five* pounds a day while such breach continues.

(3) (a) Any regulation may be made to apply to the whole of the State or to any specified part of the State, and unless otherwise provided or clearly intended shall apply to the whole State.

(b) Any regulation may be made to apply in respect of all poisons or of any specified poison, or of all poisons other than specified poisons, and unless otherwise provided or clearly intended shall apply in respect of all poisons.

(c) A poison shall be deemed to be sufficiently specified for the purposes of this section if the regulation refers to the poisons mentioned in any specified part of the Second Schedule to this Act; and any such reference shall, unless the regulation otherwise provides, be deemed to be a reference to the poisons for the time being mentioned in such part of the said Schedule.

(4)

(4) The regulations shall—

Publication,
etc.

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

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

(5) Nothing in this Act or the regulations made thereunder shall affect the operation of the Police Offences Amendment (Drugs) Act, 1927, as amended, or the regulations made under that Act as so amended.

Savings.

(2) Any regulations in force at the commencement of this Act and made under the authority of the section repealed by subsection one of this section shall continue in force until repealed or varied by regulations made under the section inserted by the said subsection.

Continuance
of existing
regulations.

4. The Poisons Act, 1902, is further amended by inserting next after section fourteen the following new sections:—

Further
amendment of
Act No. 65,
1902.
New secs. 14A-
14D.

14A. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, appoint inspectors to carry out such duties in connection with the enforcement of this Act and the regulations made thereunder as may be defined by the regulations.

Inspectors.

(2) Any person who obstructs or hinders an inspector in the performance of any duty imposed on him by the regulations shall be guilty of an offence against this Act, and shall be liable upon summary conviction to a penalty not exceeding *fifty* pounds.

Obstructing
inspector.

(3)

(3) Every member of the police force shall have and may exercise and perform all or any of the powers, authorities, duties and functions of an inspector.

Members of police force to have powers, etc., of inspectors.

14b. Any analyst appointed under the Pure Food Act, 1908, analysing any poison or substance submitted to him in pursuance of the regulations made under this Act, may give a certificate in or to the effect of the form prescribed, of the result of the analysis.

Proof of analysis by certificate.

In any legal proceedings under this Act or the regulations made thereunder, the production of a certificate purporting to be signed by such an analyst shall be prima facie evidence of the identity of the poison or substance analysed and of the result of the analysis without proof of the signature or appointment of the person appearing to have signed the same.

14c. (1) There shall be an advisory committee which shall consist of eight members.

Advisory committee.

(2) The members of the advisory committee shall be—

- (a) the persons for the time being holding the offices of Director-General of Public Health, Senior Medical Officer of Health, and Senior Analyst in the Department of Public Health; and
- (b) five members appointed by the Governor (in this section referred to as "appointed members"), of whom—
 - (i) one shall be a professor or lecturer in the Faculty of Medicine in the University of Sydney;
 - (ii) one shall be a legally qualified medical practitioner representing the medical profession;
 - (iii) one shall be a representative of the Pharmacy Board;
 - (iv) one shall be a representative of the Chamber of Commerce, Sydney;
 - (v)

(v) one shall be a representative of the Chamber of Manufactures, New South Wales.

(3) The Governor shall appoint one of the members of the advisory committee to be chairman of the committee.

(4) The chairman shall preside at all meetings of the committee, and shall have a vote and in the event of equality of votes shall have a second or casting vote.

(5) The procedure at meetings of the advisory committee, and the number of members who shall constitute a quorum of the advisory committee shall be as prescribed.

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

(7) If any 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, who shall hold office for the balance of his predecessor's term of office.

(8) The Governor may remove any appointed member for neglect of duty, incompetency, dishonourable conduct or other cause deemed sufficient by the Governor. cf. Act No. 20, 1930, s. 9.

14d. It shall be the duty of the advisory committee to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to— Functions of advisory committee.

- (a) any proposals for making, altering, or repealing any regulation under this Act; or
- (b) any proposals for amending the Second Schedule to this Act.

5. The Pharmacy Act, 1897, as amended by subsequent Acts, is amended by omitting from section one the words "shall administer the provisions of the said Poisons Act in place of the Board hereby dissolved, and". Amendment of Act No. 7, 1897, s. 1.