

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1917.

A BILL

To make provision for regulating the supply, colouring, labelling, and custody of poisons, and the use of opium and any preparations thereof; to repeal the Poisons Act, 1902, and Part VI of the Police Offences (Amendment) Act, 1908; and for purposes consequent thereon or incidental thereto.

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:—

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PART

“Pharmacist” means registered pharmacist within the meaning of the Pharmacy Act, 1897.

“Poison” means any substance specified in the Schedules.

“Prescribed” means prescribed by this Act or by regulations made thereunder.

“Schedule” means Schedule to this Act, and includes any such Schedule as altered in accordance with the provisions of this Act.

“Supply” includes sale or delivery with or without consideration.

4. The penalty, pecuniary or other, set out in this Act—

(a) at the foot of any section ; or

(b) at the foot of any subsection of any section, but not at the foot of the section,

shall indicate that any contravention of the section or of the subsection, as the case may be, whether by act or omission, shall be an offence against this Act, punishable on conviction by a penalty not exceeding the penalty mentioned.

General penalty.

5. Except where otherwise specifically provided, any contravention of any provision of this Act, or of any regulation made under this Act, whether by act or omission, shall be an offence against this Act punishable on conviction by a penalty not exceeding *twenty-five* pounds.

Amendment of Schedules.

6. (1) The Governor by proclamation published in the Gazette may amend Schedule One or any part thereof by adding thereto or removing therefrom the name of any substance, or by transferring the name of any substance from one part to another.

(2) The Governor in a like manner may amend Schedule Two by adding thereto or removing therefrom names of any substances, and by altering or removing any quantities mentioned in that Schedule, or by adding any quantities opposite to the names of any substances.

7.

Savings.

7. Except where expressly provided, this Act shall not apply to the supply of any poison specified in Part 2 or Part 3 of Schedule One when dispensed at the time of supply by a medical practitioner or by a pharmacist according to the prescription of a medical practitioner, or in a mixture extemporaneously prepared for a specific and individual case.

Administration of Act.

8. (1) The administration of this Act is vested in a board consisting of the following persons:—

The president of the Board of Health, who shall preside ;
the Professor of Chemistry in the University of Sydney ;
the medical officer of health, metropolitan combined sanitary districts ;
the senior analyst in the Department of Public Health ; and
a representative of the Pharmacy Board appointed by the Governor.

(2) The members of the board shall not receive any remuneration for their services as such members.

PART II.

CERTIFICATES.

Issue of certificates.

9. Certificates in the forms prescribed may on application be issued by the board to—

- (a) any pharmacist ;
- (b) any person carrying on business not less than four miles from a pharmacist keeping an open pharmacy (referred to hereinafter in this Act as “ a dealer in poisons ”) ;
- (c)

- (c) any dealer in photographic materials ;
- (d) any dealer in poisonous substances used solely for agricultural, pastoral, or industrial purposes ;
- (e) Any wholesale dealer in drugs.

10. (1) A person applying under paragraph (b), (c), or (d) of the last preceding section must produce to the board a statement signed by a medical practitioner and by the officer in charge of the police station nearest to his permanent business address that he is a fit and proper person to be allowed to sell poison at that place.

(2) Any certificate issued under this Act shall contain a statement of the business address of the holder. On any change of his business address the holder shall forward to the board his certificate, with a statement of his new business address, and the board shall cause the change of address to be noted on the certificate.

(3) Any such certificate shall be in force from the date of issue until the thirty-first December next following.

(4) A fee of ten shillings and sixpence shall be paid to the board for each such certificate.

Supply by holders of certificates.

11. (1) Any such certificate held by a pharmacist shall authorise him and his employees acting under his personal supervision to supply poisons by retail and wholesale :

Provided that a certificate held by a master pharmacist shall not authorise the supplying of poison at any of his branch pharmacies.

(2) Any such certificate held by a dealer in poisons shall authorise him to supply poison by retail and wholesale.

(3) Any such certificate held by a dealer in photographic materials shall authorise him to supply by retail and wholesale photographic chemicals containing poison for use exclusively in photography.

(4)

(4) Any such certificate held by a dealer in poisonous substances used solely for agricultural, pastoral, or industrial purposes, shall authorise him to supply such substances but only in respect of the substances mentioned in Schedule Two and in quantities not less than those therein prescribed.

(5) Any such certificate held by a wholesale dealer shall authorise him and his employees to supply poison to a holder of a certificate under this Act in the ordinary course of wholesale dealing. Wholesale dealing means dealing between dealers, or between dealers and manufacturers, or between manufacturers and manufacturers.

The prescribed particulars in relation to the poison and the person to whom it has been supplied shall be entered by the wholesale dealer in a book to be kept for that purpose.

(6) Any supply so authorised shall be subject to the provisions of this Act.

12. (1) A person, unless he is the holder of a certificate under this Act, shall not supply any poison.

Penalty, *fifty* pounds.

(2) A holder of a certificate issued under this Act shall not—

(a) supply any poison otherwise than as authorised by such certificate or by this Act; or

(b) supply poison at any place other than the business address named in the certificate.

Penalty, *fifty* pounds.

PART III.

THE SUPPLY AND CUSTODY.

DIVISION 1.—*Supply of scheduled poisons.*

Application of Division.

13. The provisions of this Division shall not apply to the supply by wholesale of poisons by a wholesale dealer in the ordinary course of wholesale dealing under the authority of a certificate held by him under this Act.

Poisons specified in Part 1 of Schedule One.

14. A person shall not supply any poison specified in Part 1 of Schedule One unless he is a medical practitioner, and supplies the poison to his patient bona fide for use by such patient, or is a pharmacist.

Penalty, *one hundred pounds.*

15. The following provisions shall be observed by pharmacists supplying any such poison :—

- (a) The poison shall not be supplied except on the written and signed prescription of a medical practitioner given after the commencement of this Act.
- (b) A copy of the prescription shall not be made for or given to any person.
- (c) More than the quantity of the poison specified in the prescription shall not be supplied at any one time.
- (d) A pharmacist shall not dispense the prescription unless on the written and signed authority of the medical practitioner who gave the prescription, and such authority must be given each time the prescription is dispensed, and shall be retained by the pharmacist and filed or kept as prescribed :

Provided that a pharmacist may supply such poison in emergency cases to persons known to him and upon receipt of a statement showing the urgency of the case. Such statement shall be made in writing and shall be filed by the pharmacist, who shall on demand produce it to any officer of the board or person authorised by the board.

Penalty, *fifty pounds.*

Poisons

Poisons specified in Part 2 of Schedule One.

16. A person shall not supply any poison specified in Part 2 of Schedule One to any person under the age of eighteen years.

17. A person shall not supply any such poison, unless—

- (a) on the personal request of the person requiring the poison, or
- (b) on request by letter signed by the person requiring the poison, or
- (c) on the written and signed request of a veterinary surgeon for the treatment of animals under his care.

18. (1) A person shall not supply such poison on personal request unless :—

- (a) He inquires the name, place of abode, and occupation of the person requiring the poison and the purpose for which the poison is to be used ; and
- (b) he makes an entry in a book kept for that purpose hereinafter referred to as the "poisons book" of the prescribed particulars in relation to the poison and the persons to whom it is supplied ; and
- (c) such entry is signed by him and by the person requiring the poison, or, where such last-named person cannot write, shall be authenticated by his mark ; and
- (d) the person requiring the poison is known to him or the person is supplied in the presence of a witness who is known to him and who knows the person requiring the poison, and who signs as witness the entry in the poisons book.

(2) A person requiring any such poison shall not give false information to any inquiry made under this section.

(3) A person shall not witness an entry in a poisons book for a person unknown to him.

19.

19. (1) A person shall not supply any such poison on the authority of any letter as aforesaid unless the writer of the letter and his signature are known to him, or unless the signature to the letter purports to have been witnessed by a justice of the peace, clergyman, or member of the police force, or by someone who is known, and whose signature is known to him.

(2) The letter shall be kept by the person supplying the poison, who shall enter the prescribed particulars in the poisons book.

20. (1) A person shall not supply any arsenic or uncoloured preparation thereof unless mixed with charcoal or indigo in the proportion of one ounce of charcoal or half an ounce of indigo at the least, to one pound of arsenic or preparation thereof.

(2) A person shall not supply any strychnine or uncoloured preparation thereof unless coloured with Armenian bole or other red colouring matter.

(3) Provided that whenever the person requiring the arsenic or strychnine or preparation thereof states that it is required, not for any pastoral or agricultural use, but for some purpose for which such admixture would, according to his statement, render it unfit, such poison may be supplied without the admixture hereinbefore specified. An entry to this effect, signed by the purchaser, shall be made by the supplier in the poisons book.

DIVISION 2.—*Labelling.*

21. (1) A person shall not supply any poison unless the package immediately containing it bears thereon the word "Poison," printed conspicuously together with the name of the substance and the name and address of the person supplying it. In case of a pharmacist's branch pharmacy, the name and address shall be those of the person managing the branch pharmacy :

(2) Provided that where the substance is a proprietary medicine and the package immediately containing it is enclosed in a carton, wrapper, or other outside covering, and the substance is intended to be supplied with such outside covering intact, the proprietor
or

or manufacturer of such substance shall not supply it unless the words required as aforesaid are printed both on the outside of the carton or wrapper and on the package immediately containing the poison; but any person other than the proprietor or manufacturer shall be deemed to have complied with the provisions of this section if before supplying such substance he affixes on the outside covering a label bearing his name and address.

(3) When the person supplying the poison is a dealer in photographic materials, or where the poison is supplied for purposes of photography, the vessel shall in addition bear thereon conspicuously the words "for photographic purposes only."

(4) When the person supplying the poison is a dealer in poisonous substances used solely for agricultural, pastoral, or industrial purposes, or the poison is supplied for any such purpose, the vessel shall in addition bear thereon conspicuously the words "for agricultural purposes only," or "for pastoral purposes only," or "for industrial purposes only," as the case may be.

22. The proprietor, manufacturer, importer, or agent of any patent medicines, or ready-made medicines, or proprietary medicines or secret medicines containing any poison, shall cause to be printed on the package containing such medicine, or on a label attached thereto the name of the medicine; the name of the poison, and the quantity or percentage of such poison contained therein, and such other particulars as may be prescribed.

23. All liniments, embrocations, lotions, fluid-disinfectants, or other similar fluids containing poison, whether dispensed by or according to the prescription of a medical practitioner or not so dispensed, and whether supplied by a pharmacist or by any other person shall be supplied in bottles rendered distinguishable by shape from those containing other medicine.

24. A person shall not supply or keep any poison in bottles or containers commonly used to contain food or drink used by man.

DIVISION

DIVISION 3.—*Custody.*

25. (1) Any person holding a certificate under this Act other than the holder of a certificate as a pharmacist or as a wholesale dealer shall keep all poisons in his possession or under his charge in a cupboard or other place reserved for that purpose, and shall not allow any other article to be kept in the same place.

(2) The owner or other person in charge or possession of any poison shall not leave it in any place (whether the same is ordinarily accessible to other persons or not) unless the bottle or container of whatever kind in which such poison is contained is marked "Poison."

PART IV.

OPIUM.

26. A person shall not—

- (a) supply any opium or preparation of opium which may be used for opium smoking or opium eating ;
- (b) unless the holder of a certificate under this Act have in his possession opium or any preparation of opium in a form capable of being used for the purposes of smoking ;
- (c) smoke opium ;
- (d) keep open, manage, or assist in keeping open or managing, any house, room, or place used for the purpose of opium smoking ;
- (e) being the owner or lessee of any house, room, or place, knowingly permit such house, room, or place to be used for the purpose of opium smoking.

Penalty, *fifty* pounds.

(2)

(2) Nothing in this section shall apply to the supply or possession of—

- (a) opium when made up or compounded as a medicine by a medical practitioner or according to the prescription of a medical practitioner, or contained in a mixture extemporaneously prepared by a pharmacist for a specific and individual case;
- (b) opium in the form of homœopathic medicine, unless in the crude state, mother tincture, or of a greater strength than the third potency;
- (c) patent medicines;
- (d) medicines dispensed by veterinary surgeons for animals under their treatment; or
- (e) fly poison papers and packets of poisonous mixtures for the destruction of vermin, when marked as such.

27. (1) If any constable has reasonable cause to suspect that there is in any house or place opium or any preparation of opium in contravention of the last preceding section, or that opium is being smoked therein, he may, with the authority in writing of a magistrate or a superintendent of police, enter such house or place and make search.

If opium or any preparation of opium is found in any such house or place, or in the possession of any person, the constable may demand the production of a certificate under this Act from the owner or occupier of such house or place, or from the person in whose possession the opium or preparation thereof is found, and if such certificate is not produced, may forthwith seize the opium or preparation thereof, and arrest any person present who he has reasonable grounds to suspect is contravening the provisions of the last preceding section and take him before a stipendiary or police magistrate, or any two justices of the peace, and there charge him with such offence.

(2) The opium or the preparation of opium so seized shall be forfeited and disposed of as the adjudicating magistrate or justices may direct.

(3)

(3) Any person resisting or aiding or abetting in the resistance to any constable in the execution of his duty under this section shall be liable to a penalty not exceeding *fifty* pounds.

PART V.

GENERAL AND SUPPLEMENTAL.

The register.

28. The registrar of the board shall keep in the prescribed manner and form a register of all certificates issued under this Act. Such register or a copy thereof, signed by the president or any two members of the board or by the registrar, shall be evidence that certificates under this Act were issued as stated in the register, and that no other such certificates were issued.

29. The board shall if the Minister so directs remove from the register the name of any person, holding a certificate under this Act, who has at any time before or after the commencement of this Act been convicted of any offence which, in the opinion of the Minister, renders that person unfit to be the holder of such certificate, and the person whose name has been so removed shall at once on demand, return the certificate to the board.

Where the name of any person has been removed from the register under this section, the board shall not issue to such person a certificate under this Act unless with the approval of the Minister.

Inspection.

30. Any person dealing in drugs and poisons, and his agent or employee, shall, at the request of any officer of the board, authorised in writing by the board, or of any officer of the Health Department authorised by the Director-General of Public Health, or of any member

member of the police force being a superintendent, inspector, or sergeant, or being a constable authorised in writing by the inspector-general or by a superintendent of police, show to such officer or member or permit him to inspect his stock of poison and any container in which is kept any substance which such officer or member suspects to contain any poison, and to take therefrom in his presence a sample consisting of a reasonable quantity of such drug or poison on payment or tender of the value thereof.

If such officer or member proposes to submit the sample to analysis, he shall so inform the person from whom he obtains it, and shall on the demand of such person, in his presence, seal up and offer one part thereof to the said person, and shall seal and retain two other parts thereof. He may submit one of such last-mentioned parts to analysis, and shall retain the other until required for future comparison.

Analysis.

31. Any Government analyst and any officer of the Health Department may analyse any substance submitted to him, and may give a certificate of the analysis and of the poisonous nature of such substance, and in proceedings before any court or justices the production of such certificate shall be sufficient evidence of the identity and nature of the substance analysed, and of the result of the analysis, without proof of the signature of the person appearing to have signed the same.

Production and exhibition of certificates.

32. Any holder of a certificate under this Act shall, on the order in writing of the president of the board or of any stipendiary or police magistrate, produce for the inspection of anyone presenting such order any poison book kept by him or by any of his employees, and any letter, prescription, or authority kept by him relating to the supply of any poison.

33.

33. The holder of a certificate under this Act shall exhibit the same in a conspicuous place in that part of his pharmacy, shop, store, or warehouse in which poison is supplied.

General penalties.

34. A person shall not supply any poison otherwise than in accordance with the provisions of this Act and of the regulations thereunder.

For the purposes of this Act the person on whose behalf any poison is supplied by any apprentice or employee shall be deemed to be the supplier :

Provided that such apprentice or employee shall also be liable to the same penalty as his employer.

35. Any person who counsels, aids, or abets any person in offending against any of the provisions of this Act shall be liable on conviction to a penalty not exceeding *twenty-five* pounds.

Regulations.

36. (1) The Governor may make regulations for carrying out the provisions of this Act, and in particular providing for applications for and the granting of certificates and prescribing the forms to be used.

(2) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

Fees.

37. All fees payable under this Act or the regulations made under this Act shall be paid to the Board.

Recovery

Recovery of penalties.

38. All penalties under this Act or the regulations may be recovered in a summary way before a stipendiary or police magistrate, or any two justices in petty sessions.

SCHEDULES.

SCHEDULE ONE.

PART 1.

Ergot of rye and preparations or admixtures thereof.

PART 2.

Arsenic.

All poisonous alkaloids not specifically named in this schedule, and their salts and all poisonous derivatives of alkaloids.

Cantharidin.

Chloral hydrate.

Corrosive sublimate.

Cyanide of potassium and all poisonous cyanides and their preparations.

Homatropine and its salts.

Opium and all preparations or admixtures containing 0.75 per cent. or more of morphine.

Phosphorus.

Picrotoxin.

Prussic acid and all preparations or admixtures containing 1 per cent. or more of hydrogen cyanide.

Snake venom.

Strychnine and its salts.

Savin and its oil and all preparations or admixtures containing savin or its oil.

Strophanthin, digitalin, and all poisonous glucosides.

Tartar emetic and all preparations or admixtures containing 1 or more per cent. of tartar emetic.

PART 3.

Alkyl and aryl arsenic compounds and their metallic derivatives and preparations thereof, whether described by chemical names or by trade names, marks, or designations.

Almonds, essential oil of, unless deprived of prussic acid.

Aconite and preparations thereof.

Arsenical preparations and admixtures thereof except green and other coloured paints.

Acetate of lead (sugar of lead) and poisonous salts or compounds of lead.

Belladonna and preparations thereof.

Cantharides,

SCHEDULE ONE—*continued.*

- Cantharides, tincture of cantharides and all vesicating liquid preparations and admixtures containing more than 0.0001 per cent. of cantharidin.
- Carbolic acid (phenol) and liquid preparations of carbolic acid and its homologues containing more than 3 per cent. of those substances.
- Chloroform and all preparations or admixtures containing more than 1 per cent. of chloroform.
- Coca and preparations or admixtures thereof containing more than 1 per cent. of coca alkaloids.
- Croton oil.
- Digitalis and preparations thereof.
- Diethyl-barbituric acid and other alkyl, aryl or metallic derivatives of barbituric acid, whether described by chemical names or by trade names, marks or designations.
- Hydrochloric acid (strong spirit of salt).
- Mercuric iodide.
- Nux vomica and preparations thereof.
- Nitric acid.
- Oxalic acid and preparations or admixtures thereof.
- Opium and all preparations or admixtures of opium or poppies containing less than 0.75 per cent. of morphine.
- Precipitate, red, and all oxides of mercury.
- Precipitate, white.
- Preparations of tartar emetic containing less than 1 per cent. and more than 0.25 per cent. of tartar emetic.
- Preparations of corrosive sublimate or admixtures thereof.
- Preparations of chloral hydrate.
- Preparations of prussic acid.
- Preparations of strychnine and its salts.
- Preparations of all poisonous alkaloids, and their salts and poisonous derivative.
- Preparations of phosphorus and admixtures thereof.
- Preparations of all poisonous glucosides and admixtures thereof.
- Strophanthus and preparations thereof.
- Sulphonal and its homologues, whether described by chemical names or by any trade names, marks, or designations.
- Sulphuric acid.
- Cannabis indica and its preparations.

SCHEDULE TWO.

| | | | | |
|----------------------------------|-----|-----|-----|------------|
| Arsenic | ... | ... | ... | One pound |
| Phosphorus | ... | ... | ... | One pound |
| Strychnine | ... | ... | ... | One ounce |
| Carbolic acid (Phenol) | ... | ... | ... | One gallon |
| Sheep dip. | | | | |
| Cattle dip. | | | | |
| Arsenate of lead. | | | | |
| Nicotine and admixtures thereof. | | | | |