

No. , 1923.

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## A BILL

To regulate the manufacture, possession, supply, and use of certain dangerous drugs; to amend the Police Offences (Amendment) Act, 1908, and certain other Acts; and for purposes connected therewith.

[MR. BAVIN;—22 November, 1923, A.M.]

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**B**E 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:—

### PART I.

#### PRELIMINARY.

**1.** (1) This Act may be cited as the "Dangerous Drugs Act, 1923," and shall come into operation on the day of , one thousand nine hundred and twenty-three.

Short title  
and com-  
mencement.

(2) The provisions of this Act shall be read subject to the provisions of the Commonwealth of Australia Constitution Act.

Division  
of Act.

**2.** This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1-4. 5

PART II.—OPIUM—*ss.* 5, 6.

PART III.—COCAINE, MORPHINE, AND OTHER  
DANGEROUS DRUGS—*ss.* 7-19.

PART IV.—GENERAL—*ss.* 20-26.

Repeal.

**3.** Part VI of the Police Offences (Amendment) Act, 1908, is hereby repealed.

Definitions.

**4.** In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Cocaine” means the principal alkaloid of the leaves of *Erythroxylon coca* having the chemical formula  $C_{17}H_{21}NO_4$ . 15

“Drug” means any drug to which Part III of this Act may from time to time apply.

“Heroin” means the diacetyl morphine having the chemical formula  $C_{21}H_{23}NO_5$ . 20

“Medical practitioner” means legally qualified medical practitioner registered under the Medical Practitioners Act, 1912.

“Medicinal opium” means raw opium which has been heated to sixty degrees centigrade and contains not less than ten per centum of morphine, whether or not it be powdered or granulated or mixed with indifferent materials, or any raw opium which has been artificially dried. 25 30

“Minister” means Minister for Public Health.

“Morphine” means the principal alkaloid of opium having the chemical formula  $C_{17}H_{19}NO_3$ .

“Opium,” without any qualifying adjective, includes any preparation thereof in a form capable of being used for the purpose of smoking. 35

“Package”

- “Package” includes anything in or by which an article is cased, covered, enclosed, contained, or packed.
- 5 “Prepared opium” means the product of raw opium obtained by a series of special operations, especially by dissolving, boiling, roasting, and fermentation designed to transform it into an extract suitable for consumption, and includes dross and all other residues remaining when
- 10 opium has been smoked.
- “Prescribed” means prescribed by this Act or by regulations.
- “Raw opium” means the spontaneously coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*) which has only
- 15 been submitted to the necessary manipulations for packing and transport.
- “Registered dentist” means a dentist registered under the Dentists Act, 1912.
- 20 “Registered veterinary surgeon” means a veterinary surgeon registered under the Veterinary Surgeons Act, 1923.
- “Regulations” means regulations made under the authority of this Act.
- 25 “Supply” includes sale or delivery with or without consideration.

PART II.

OPIUM.

5. If any person (a) has in his possession any raw opium or (h) cultivates the opium poppy (*Papaver somniferum*) he shall be guilty of an offence against this Act.

Raw opium.  
Cultivation of  
opium poppy.

6. If any person—  
(a) manufactures or otherwise deals in prepared opium; or

Prepared  
opium.  
10 & 11  
Geo. V,  
c. 46, s. 5.

(b)

1908 No. 12,  
s. 19.

- (b) has in his possession any prepared opium ; or
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation of opium for smoking or the sale or smoking of prepared opium ; or 5
- (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of opium smoking ; or
- (e) is concerned in the management of any premises used for any such purpose as aforesaid ; 10  
or
- (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium or any utensils used in connection with the preparation of opium for smoking ; or 15
- (g) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking ;

he shall be guilty of an offence against this Act.

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PART III.

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MEDICINAL OPIUM, COCAINE, AND OTHER DANGEROUS  
DRUGS.

Drugs to  
which  
Part III  
applies.  
10 & 11  
Geo. V,  
c. 46, s. 8.

**7.** (1) The drugs to which this Part of this Act applies are morphine, cocaine, ecgonine, codeine, and 25 diamorphine (commonly known as heroin) and their respective salts, and medicinal opium, and any preparation, admixture, extract or other substance containing not less than one-fifth per centum of morphine or one-tenth per centum of cocaine, ecgonine, codeine, or 30 diamorphine.

For the purpose of the foregoing provision the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

(2)

(2) Percentages in the case of liquid preparations shall, unless other provision in that behalf is made by regulations under this Act, be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

Calculation of percentages in case of liquid preparations. 13 & 14 Geo. V, c. 5, s. 5.

(3) The Governor may by proclamation published in the Gazette declare that this Part of this Act shall apply to any drug of whatever kind which has been in the opinion of the Governor demonstrated by scientific research to be liable to abuse, and to be in its abuse productive of ill effects, in the same manner as it applies to the drugs mentioned in subsection one of this section.

Similar drugs. cf. 10 & 11 Geo. V, c. 46, s. 8.

8. No person shall manufacture or carry on any process in the manufacture of morphine, cocaine, ecgonine, codeine, or diamorphine, or their respective salts, medicinal opium, or any drug to which this Part of this Act is applied by proclamation—

Manufacture. S.R. & O. 1921 No. 865, r. 2.

- (a) unless he is licensed by the Minister or is authorised by the regulations or by any authority granted by the Minister to do so; and
- (b) except on premises licensed for the purpose by the Minister; and
- (c) otherwise than in accordance with the terms and conditions of such license or authority.

9. No person shall supply or procure or offer to supply or procure any drug to or for any person in New South Wales, or shall advertise any drug for sale—

Sale and distribution. S.R. & O. 1921 No. 865, r. 3; 1923 No. 312, r. 1.

- (a) unless he is licensed by the Minister or is authorised by the regulations or by any authority granted by the Minister to supply the drug, or unless he is licensed or otherwise authorised to manufacture the drug or (but so far only as regards procuring the drug) unless he is licensed to procure the drug; or
- (b) otherwise than in accordance with the terms and conditions of such license or authority.

10.

Supply  
prohibited.  
S.R. & O.  
1921 No. 865,  
r. 4.

**10.** (1) Except when the drug is lawfully dispensed in pursuance of a prescription given by a medical practitioner, registered dentist, or registered veterinary surgeon, or is supplied by a duly qualified medical practitioner or registered veterinary surgeon who dispenses his own medicines in accordance with the conditions specified in the regulations, no person shall supply or procure or offer to supply or procure any drug to or for any person in the State of New South Wales who is not licensed or otherwise authorised to be in possession of the drug nor to any person so licensed or authorised except in accordance with the terms and conditions of such license or authority. 5 10

(2) The administration of a drug by or under the direct personal supervision of a medical practitioner or by direct personal supervision of a registered dentist in dental treatment or by or under the direct personal supervision of a registered veterinary surgeon in the treatment of any animal, or by a trained nurse or a pharmacist being specially licensed as prescribed, to administer a drug, and when the drug is administered in strict compliance with the conditions prescribed by the regulations, shall not be deemed to be supplying the drug within the meaning of this section. 15 20

Possession.  
S.R. & O.  
1921 No. 865,  
r. 7; 1922  
No. 1,087,  
r. 3.

**11.** No person shall be in possession of or attempt to obtain possession of any drug unless— 25

- (a) he is licensed or otherwise authorised to manufacture or supply the drug; or
- (b) he is otherwise licensed by the Minister or authorised by the regulations or by any authority granted by the Minister to be in possession of the drug; or 30
- (c) the drug was supplied for his use by a medical practitioner or registered veterinary surgeon, or on and in accordance with a prescription in accordance with the regulations. 35

S.R. & O. 1921  
No. 865.  
*Ibid.* r. 14.

Any drug in the order or disposition of any person shall be deemed to be in his possession.

Marking of  
packages or  
bottles.

*Ibid.* r. 8.

**12.** (1) No person shall supply any morphine, cocaine, ecgonine, codeine, diamorphine, or their respective salts, or any medicinal opium, unless the package or bottle containing it is plainly marked with the amount of the drug in the package or bottle. 40 (2)

(2) No person shall supply any preparation, admixture, extract, or other substance containing any of these last-mentioned drugs unless the package or bottle is plainly marked—

5 (a) in the case of a powder, solution, or ointment with the total amount thereof in the package or bottle, and the percentage of the drug in the powder, solution, or ointment;

10 (b) in the case of tablets or other articles with the amount of the drug in each article and the number of articles in the package or bottle.

(3) This section does not apply to any preparation dispensed by a medical practitioner or on the prescription of a medical practitioner.

15 **13.** (1) Any person lawfully keeping open shop for the purposes of dispensing and compounding medical prescriptions in accordance with the provisions of the Pharmacy Act, 1897, or a pharmacist registered under the said Act in charge of the shop is hereby authorised, but subject always to the provisions of this Act and the regulations—

General  
authorisa-  
tions.  
Pharmacists.  
*Ibid.* r. 10.

(a) to manufacture at the shop in the ordinary course of retail business any preparation, admixture, or extract of any drug;

25 (b) to carry on at the shop the business of retailing, dispensing, or compounding the drug.

(2) In the event of any such person being convicted of an offence against the Act or the regulations the Minister may by notice in the Gazette withdraw the authorisation aforesaid if in the opinion of the Minister such person cannot properly be allowed to carry on the business of manufacturing or retailing or dispensing or compounding, as the case may be, any such drug.

35 **14.** Any medical practitioner or any registered dentist, registered veterinary surgeon, or any person employed or engaged in dispensing medicines at any public hospital or other public institution, being a person duly registered as a pharmacist under the Pharmacy Act, 1897, or any person in charge of a laboratory for purposes of research or instruction attached to the University

Medical  
practitioner.  
*Ibid.* r. 11.

University of Sydney or a public hospital or other institution approved by the Minister for the purpose, or any person appointed by the Governor or a local authority with the approval of the Governor as an analyst for the purposes of the Pure Foods Act, 1908, is hereby authorised so far as is necessary for the practice of his profession or employment in such capacity to be in possession of and supply any drug. 5

Withdrawal  
of authority.  
*Ibid.* r. 12.

**15.** In the event of any person authorised by this Act or by any license or authority granted by the Minister to manufacture, supply, or be in possession of any drug, or any of them being convicted of any offence against the Act or the regulations, the Minister may, by notice in the Gazette, withdraw the authorisation in respect of such person. 10 15

Delivery to  
messengers.  
*Ibid.* r. 13.

**16.** (1) No person shall deliver any drug to any person not licensed or otherwise authorised to be in possession of any drug who purports to be sent by or on behalf of a person so licensed or authorised unless such person produces an authority in writing signed by the person so licensed or authorised to receive the drug on his behalf, and unless the person supplying the drug is satisfied that the authority is genuine. 20

(2) This section shall not be deemed to apply to medicines dispensed in pursuance of this Act or the regulations. 25

Ships.

**17.** In the case of a ship not carrying as part of her complement a medical practitioner the master of the ship shall be deemed to be a person authorised to be in possession of any drug so far as is necessary to comply with the requirements of the Merchant Shipping Acts, and it shall also be lawful for him, subject to any conditions prescribed by the Minister, to administer and supply the drug to any member of the crew in accordance with instructions prepared or sanctioned by the Minister. The keeping of a record of the use of the drug in the official log in accordance with the provisions of the Merchant Shipping Acts shall be deemed to be compliance with the requirements of any regulations as to the keeping of records. 30 35 40

**18.**



**18.** The Minister may exempt from the operation of this Act any hospital or other public institution subject to the observance of such conditions as he may by writing prescribe, and may at any time withdraw such exemption.

Hospitals.  
*Ibid.* r. 16.

**19.** (1) This Part shall not apply in respect of the preparations named in the Schedule to this Act nor to any drug when denatured in a manner approved by the Minister.

Preparations  
exempted.  
*Ibid.* r. 17.

10 (2) The Governor may from time to time, by proclamation published in the Gazette, add any other preparation to the Schedule or remove any preparation from the Schedule.

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PART IV.

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GENERAL.

**20.** (1) Any constable or other person authorised in that behalf by any general or special order of the Minister shall, for the purposes of the execution of this Act, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller, or distributor of any drug to which this Act applies, and to demand the production of and to inspect any books or documents relating to dealings in any such drug, and to inspect any stocks of any such drug.

Power to  
enter.  
10 & 11  
Geo. V,  
c. 46, s. 10.  
13 & 14  
Geo. V, c. 5,  
s. 1 (2).

25 (2) If a justice is satisfied by information on oath that there is reasonable ground for suspecting that any opium or drug to which this Act applies is, in contravention of the provisions of this Act or the regulations, in the possession or under the control of any person in any premises, or that any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be, an offence against this Act, or in the case of a transaction or  
35 dealing carried out or intended to be carried out in any place

13 & 14  
Geo. V, c. 5,  
s. 1.

place outside New South Wales an offence against the provisions of any corresponding law in force in that place, is in the possession or under the control of any person in any premises, he may grant a search warrant authorising any constable named in the warrant, at any time 5 or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein, and, if there is reasonable ground for suspecting that an offence against this Act has been 10 committed in relation to any such drug which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid, to seize and detain the drug or that document, as the case may be. 15

10 & 11  
Geo. V, c. 46,  
s. 10 (2).

(3) If any person wilfully delays or obstructs any person in the exercise of his powers under this section or fails to produce or conceals or attempts to conceal any such books, stocks, opium, drug, or documents as aforesaid, he shall be guilty of an offence 20 against this Act.

Licenses.

**21.** Licenses or authorities for the purposes of this Act may be issued or granted by the Minister, and may be issued or granted on such terms and subject to such conditions (including in the case of a license the payment 25 of a fee) as the Minister thinks proper.

Offences.  
13 & 14  
Geo. V, c. 5,  
s. 2.

**22.** (1) Any person—

- (a) who acts in contravention of or fails to comply with any regulation made under this Act; or
- (b) who acts in contravention of or fails to comply 30 with the conditions of any license issued or authority granted under or in pursuance of this Act; or
- (c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant, 35 or renewal of any such license or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or any document 40 containing the same; or

(d)

5 (d) who in New South Wales aids, abets, counsels, or procures the commission in any place outside New South Wales of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to or in furtherance of any act which if committed in New South Wales would constitute an offence against this Act,

shall be guilty of an offence against this Act.

10 (2) Every person guilty of an offence against this Act shall in respect of each offence be liable— Penalties.  
13 & 14  
Geo. V, c. 5  
s. 2 (2).

15 (a) on conviction on indictment, to a fine not exceeding *one thousand* pounds or to penal servitude for a period not exceeding *ten* years, or to both such fine and penal servitude ; or

20 (b) on summary conviction, to a fine not exceeding *two hundred and fifty* pounds or to imprisonment with or without hard labour for a term not exceeding *twelve* months, or to both such fine and imprisonment ;

and shall in every case on conviction for the offence forfeit to His Majesty all articles in respect of which the offence was committed, and the court before which the offender was convicted may order any forfeited  
25 articles to be destroyed or otherwise disposed of as the court thinks fit.

(3) No person shall, on conviction for any offence of contravening or failing to comply with the conditions of any license granted by the Minister to supply a drug  
30 to which this Act applies or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug to which this Act applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding *fifty* pounds, if the court  
35 dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connection with the commission or intended commission of any other offence against this Act.

(4)

Attempts.  
13 & 14  
Geo. V, c. 5,  
s. 1.

(4) If any person attempts to commit an offence against this Act, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on summary conviction to the same punishment and forfeiture as if he had committed an offence under this Act. 5

Company.  
*Ibid.*

(5) Where a person convicted of an offence under this Act is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent. 10

10 & 11  
Geo. V, c. 46,  
s. 13 (3).

(6) Any proceedings for an offence against this Act before a court of summary jurisdiction may, notwithstanding any enactment prescribing the time within which such proceedings may be brought, be brought either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of the Minister to justify a prosecution for the offence comes to his knowledge, whichever is the longer, and, for the purposes of this subsection, a certificate purporting to be signed by the Minister as to the date on which such evidence as aforesaid comes to his knowledge shall be conclusive evidence thereof. 20

(7) The provisions of the last preceding subsection shall apply to proceedings for attempting or soliciting or inciting another person to commit such an offence as they apply to proceedings for such an offence. 25

Proof.  
13 & 14  
Geo. V, c. 5,  
s. 1 (3).

**23.** (1) In any proceedings against a person for an offence against this Act it shall not be necessary to negative by evidence any license, authority, or other matter of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof. 30

*Ibid.*

(2) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Act may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence, in addition to the fine. 40

**24.** The expression "corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country outside New South Wales to be a law providing for the control and regulation in that country of the manufacture, sale, use, export, and import of drugs in accordance with the provisions of the International Opium Convention signed at The Hague on the twenty-third day of January, one thousand nine hundred and twelve, and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive.

Corres-  
ponding law.  
*Ibid.* s. 6.

**25.** (1) The Governor may for the purposes of this Act appoint an advisory committee.

Advisory  
committee.

(2) The committee shall comprise the persons who for the time being are respectively:—the Director-General of Public Health, the Government Analyst, the President of the Medical Board, the President of the Pharmacy Board, and the Professor of Pharmacology at the University of Sydney, and a person to be nominated by the Council of the Chamber of Manufactures.

(3) Any member of the committee may be removed by the Governor.

(4) The Director-General of Public Health shall be the chairman of the committee, and at all meetings shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(5) Any three members of the committee shall constitute a quorum.

(6) The secretary to the Board of Health shall be the secretary of the committee.

(7) The members of the committee, except those employed in the State Public Service, may be paid such attendance fees as may be prescribed, but such fees shall not exceed one guinea per member for each sitting, and no member shall receive fees aggregating more than fifty pounds in any one year.

(8)

- (8) The function of the committee shall be to assist in framing the regulations to be made and to advise and report on such matters as the Minister may refer to them in connection with the administration of this Act.
- Regulations. **26.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which 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; and in particular and without limiting the generality of the foregoing power the Governor may make regulations—
- (a) regulating the issue by any person of prescriptions containing any drug to which this Act applies, and the dispensing of any such prescriptions; and
  - (b) requiring persons engaged in the manufacture, sale, or distribution of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed.
- (2) The regulations shall—
- (a) be published in the Gazette;
  - (b) take effect from the date of publication or from a later date specified in the regulations; 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 regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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SCHEDULE.

Sec. 19.

	Cereoli Iodoformi et Morphinae, B.P.C.
	Chlorodyne, B.P.C.
	Emp. Opii, B.P., 1898.
	Lin. Opii, B.P.
	„ Opii, Ammon., B.P.C.
	Pasta Arsenicalis, B.P.C.
	Pil. Hydrarg. c. Opio, B.P.C.
0	„ Ipecac. c. Scilla, B.P.
	„ Plumbi c. Opio, B.P.
	„ Digitalis et Opii Co., B.P.C.
	„ Hydrarg. c. Cret. et Opii, B.P.C.
	Pulv. Cretae Aromat. c. Opio, B.P.
15	„ Ipecac. Co., B.P. (Dover's Powder).
	„ Kino Co., B.P.
	Tabletæ Plumbi c. Opio, B.P.C.
	Ung. Gallæ c. Opio, B.P. (Gall and Opium Ointment)
	„ Gallæ Co., B.P.C.

1871  
1872  
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