

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 March, 1966, A.M.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith.

BE

Poisons.

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
5 follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Poisons Act, 1966". Short title
and com-
mencement.

(2) Except as provided in subsection three of this
10 section, 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.

(3) The provisions of this Act relating to the nomina-
15 tion and appointment of members of the Committee shall
commence upon the day upon which Her Majesty's assent
to this Act is signified.

(4) The members of the Committee first appointed
under this Act shall assume office upon the day appointed
20 and notified under subsection two of this section in respect
of Division 1 of Part II of this Act.

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

Divisions
of Act.

PART I.—PRELIMINARY—ss. 1–5.

25 PART II.—POISONS ADVISORY COMMITTEE AND
POISONS LIST—ss. 6–8.

DIVISION 1.—*Poisons Advisory Committee*—ss. 6, 7.

DIVISION 2.—*Poisons List*—s. 8.

PART III.—POISONS AND RESTRICTED SUBSTANCES
—ss. 9–19.

30 DIVISION 1.—*Restrictions on Sale, Possession, etc.,
of Poisons and Restricted Substances*—ss. 9–18.

DIVISION 2.—*Exemptions*—s. 19.

PART

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PART IV.—DRUGS OF ADDICTION AND PROHIBITED
DRUGS—ss. 20–33.

DIVISION 1.—*Restrictions on Possession, Manufac-
ture, Sale, etc., of Drugs of Addiction*—ss.
20–26.

DIVISION 2.—*Restrictions on Prescribing Drugs of
Addiction*—ss. 27–30.

DIVISION 3.—*Prohibited Drugs*—ss. 31–33.

PART V.—GENERAL—ss. 34–46.

PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS
AMENDED BY SUBSEQUENT ACTS, AND MOTOR
TRAFFIC ACT, 1909, AS AMENDED BY SUBSE-
QUENT ACTS—ss. 47, 48.

SCHEDULE.

3. (1) The enactments mentioned in the Schedule to
this Act are, to the extent therein expressed, hereby repealed. ^{Repeal and savings.}

(2) Any license issued under section nine of the
Poisons Act, 1952, as amended by subsequent Acts, and in
force immediately before the commencement of section ten
of this Act, shall be deemed to be a license issued under
section ten of this Act.

(3) Notwithstanding subsection one of this section,
a person required by section twelve, thirteen, fourteen or
fifteen of the Poisons Act, 1952–1965, to preserve any book,
letter, telegram, radiogram or order referred to in any of those
sections for any period shall continue to preserve that book,
letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter
otherwise indicates or requires— <sup>Interpre-
tation.</sup>

“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 Poisons Advisory Committee
constituted under section six of this Act.

“Container”,

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- 5 "Container", when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.
- 10 "Dentist" means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.
- 15 "Drug of addiction" means any substance specified in Schedule Eight of the Poisons List.
- "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 poison, restricted substance or drug of addiction; and "labelled" has a corresponding interpretation.
- "License" means a valid and unexpired license or renewal of a license.
- 20 "Package", when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.
- 25 "Pharmacist" means a practising pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts.
- 30 "Pharmacy trainee" means a pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts, not being a practising pharmacist within the meaning of that Act, as so amended, but who is employed in the business of a practising pharmacist within the meaning of that Act, as so amended.
- 35 "Poison" means any substance specified in Schedule One, Schedule Two, Schedule Three, Schedule Five, Schedule Six, or Schedule Seven of the Poisons List.
- 40 "Poisons List" means the list proclaimed under section eight of this Act as in force for the time being.
- "Prescribed"

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“Prescribed” means prescribed by this Act or by the regulations.

“Prohibited drug” means—

- 5 (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

10 “Public institution” means—

- (a) any Government Department, public hospital, or university within New South Wales; or
- 15 (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.

“Regulations” means regulations made under this Act.

20 “Restricted substance” means any substance specified in Schedule Four of the Poisons List.

“Sell” includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and “sale” and each of the other derivations of “sell” have corresponding interpretations.

30 “Substance” includes preparation or admixture and all salts and derivatives of any substance.

“Therapeutic use” means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
 - 35 (b) influencing, inhibiting or modifying a physiological process,
- of a man or animal.

“Under

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“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

5 “Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

10 (a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any
15 Schedule of the Poisons List; and

(b) includes sale or supply to other persons in wholesale quantities in the ordinary course of wholesale dealing and for use in
20 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 any such substance for use,
25 but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

(a) by reference to any one or more of the following :—

- 30 (i) the common or scientific name of the substance;
(ii) any class of substances;
(iii) the composition of the substance;
(iv) the purpose for which the substance may be
35 used;
(v) the manner in which the substance is packed; or

(vi)

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- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
- 5 (b) in any other manner so specified.
5. (1) The Minister may from time to time, by order published in the Gazette, exempt—
- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
- 10 (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,
- specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the
- 15 order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.
- (2) The provisions of subsection one of this section
- 20 do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

25 DIVISION 1.—*Poisons Advisory Committee.*

6. (1) For the purposes of this Act there shall be a Poisons Advisory Committee which shall consist of fourteen members.
- (2) The members of the Committee shall be—
- 30 (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;
- (b)

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- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- 5 (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- 10 (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- 15 (g) eight members appointed by the Governor (in this section referred to as "appointed members") of whom—
- (i) one shall be a representative of the University of New South Wales;
- 20 (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
- (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
- 25 (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
- (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
- 30 (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch);
- (vii) one shall be a representative of the Country Traders' Association of New South Wales; and
- 35 (viii) one shall be a representative of the Pharmaceutical Society of New South Wales.

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

(4)

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- (4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.
- 5 If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.
- (5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an
10 equality of votes, a second or casting vote.
- (6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.
- 15 (7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.
- (8) The appointed members of the Committee shall hold office for a period of three years and shall be eligible for reappointment.
- 20 (9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.
- 25 Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.
- (10) An appointed member shall be deemed to have
30 vacated his office if he—
- (a) dies;
 - (b) resigns his office by writing under his hand addressed to the Governor;
 - (c) becomes a mentally ill person, a protected person,
35 or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
 - (d)

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(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 Committee; or

(e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

7. (1) The Committee may initiate and refer to the Minister—
Functions of Committee.

(a) recommendations for making, altering or repealing any regulation under this Act;

(b) recommendations for amending the Poisons List.

(2)

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—Poisons List.

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section.

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

(ii) with which excessive unsupervised self-medication is unlikely; and

(iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him by the Committee.

(5)

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(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection 5 five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- 10 (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommenda-
15 tion of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.*

20 **9. (1)** Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
25
- (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.
30

Sale of certain substances prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, 5 dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance 10 addressed to him.

10. (1) The Under Secretary may issue a license to sell ^{Licenses} substances specified in Schedule One, Two or Three of the ^{to sell} Poisons List to any person who— ^{poisons.}

- 15 (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- 20 (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of 25 the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

30 (b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- 35 (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

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11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required.

Sale of certain poisons to be entered in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by correspondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

(a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

(b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

5 **13.** (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of
10 the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by telegram or radiogram.

(2) No person shall sell any such poison so ordered
15 to any person who is unknown to the vendor.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are
20 fulfilled, apply where—

Modification of section 11.

- (a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and
- (b) the purchase is made by him for the purpose of his profession.

25 (2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
30
- (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary surgeon;
35

(c)

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- (c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;
- 5 (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
- (e) preserve the order for a period of five years from the date on which the order is received by him.

10 (3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his
 15 profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange
 20 for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the
 25 vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

30 **15.** No person shall sell any substance specified in Schedule One of the Poisons List—

- (a) to any person who is under eighteen years of age;
or

205—B

(b)

Restrictions as to the sale of certain poisons

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

- 5 (i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and
- 10 (ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

15 **16.** (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

- (a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or
- 20 (b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

25

(3) A person shall not—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

- 30 (i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or
- 35 (ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

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or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

- 5 (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or
- 10 (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

(4) Any prescribed restricted substance in the order or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

- (a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or
- 25 (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

- 30 (a) the issue, renewal and cancellation of licenses under this Part;
- (b) the colouring of any poisons and restricted substances;
- 35 (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

Regulations under Part III.

(d)

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- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- 5 (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- 10 (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- 15 (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- 20 (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- 25 (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- 30 (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

- (2) A regulation made under this Part may apply—
- (a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;
 - (b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.
18. Subject to this Act, any person who—
- (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or
 - (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,
- shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

Penalty
for
offences
under
Part III.

DIVISION 2.—Exemptions.

19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.
- (2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

Limitation
of applica-
tion of
certain
provisions
of Divi-
sion 1.

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

(a) made up or compounded as a medicine by—

5 (i) a pharmacist acting in the lawful practice of his profession as such; or

(ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,
on and in accordance with the prescription of a
10 medical practitioner, dentist, or veterinary surgeon;

(b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;

15 (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal
20 treatment;

but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the
25 name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

(a) photographic materials for the purpose of photography;

30 (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or

35 (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction.*

5 **20.** In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-

10 “Indian hemp” means the fresh or dried aerial parts of the plant known as *Cannabis Sativa L.*, whether or not the resin has been extracted therefrom, and any resinous or other extract obtained from that plant, by whatever name those parts or extracts are called.

15 “Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

 “Owner”, in relation to any premises, includes the person entitled to receive the rent of premises and the person to whom the rent of the premises is paid.

20 “Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

25 “Smoking” includes inhaling fumes produced by heating or burning any substance, and “smokes” has a corresponding interpretation.

21. (1) If any person—

- | | | |
|----|---|---|
| 30 | (a) manufactures, sells, or otherwise deals in prepared opium or Indian hemp; | Offences relating to prepared opium and other drugs of addiction. |
| | (b) has in his possession any prepared opium or Indian hemp; | |
| | (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation | |

Poisons.

preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp ;

5 (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp ;

10 (e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection ;

15 (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking ; or

(g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp ;

20 he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

25 (a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug ;

(b) he is otherwise authorised under the regulations to be in possession of the drug ; or

30 (c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

(3) A person shall not be guilty of an offence under
35 subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he
proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

- 5 (4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters
15 or utters, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner or veterinary surgeon
including any drug of addiction shall be guilty of an offence against this Division. Forging,
etc.,
prescriptions.

(2) Any person who—

- 15 (a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—
- (i) obtains from any medical practitioner or veterinary surgeon any prescription including any drug of addiction;
- 20 (ii) induces any pharmacist to dispense any forged or fraudulently altered prescription, including a drug of addiction, or any prescription obtained in contravention of this paragraph knowing it to be forged or
- 25 so altered or obtained; or
- (b) is in actual possession of any forged or fraudulently altered prescription including a drug of addiction or any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be
- 30 forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representation (whether verbal, or in writing, or by conduct) obtains or
attempts to obtain from any medical practitioner, pharmacist
35 or veterinary surgeon any drug of addiction shall be guilty of an offence against this Division. Obtaining
drug by
false
representation.

24.

Poisons.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

Regulations.

- 5 (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- 10 (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority;
- (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- 15 (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- 20 (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- 25 (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- 30 (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- 35 (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

(2)

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

- (a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—
 - 5 (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
 - (ii) carrying on at his shop the business of selling by retail, dispensing, or compound-
10 ing that drug;
- (b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary
15 surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;
- (c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other
20 persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;
- 25 (d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;
- 30 (e) the withdrawal of any such license or authority by the Under Secretary; and
- (f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license
35 or authority.

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act,
40 1908, as amended by subsequent Acts. (b)

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

(a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and

(b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other than persons or classes of persons so specified.

25. Any person—

- (a) who acts in contravention of or fails to comply with any regulation made under this Division;
- (b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or
- (c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which is

Further offences against this Division.

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

5 shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, 10 or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty.

15 (2) The court before which the offender was convicted of an offence against this Division may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

20 (3) No person shall, on conviction for any offence of contravening or failing to comply with the conditions of any license issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be 25 sentenced to imprisonment without the option of a fine or to pay a fine exceeding one hundred dollars, if the court 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 30 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as 35 if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division may be ordered to commence at the expiration of any term
5 of imprisonment imposed on that person for the same offence in addition to the fine.

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

DIVISION 2.—Restrictions on Prescribing Drugs of Addiction.

27. In this Division—

15 “Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely
20 to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

25 “Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

30 **28.** A medical practitioner shall not prescribe for or supply to—
(a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his
35 knowledge, been prescribed or supplied by any other

Interpre-
tation.

Prohibi-
tion on
prescribing
drugs of
addiction
in certain
cases.

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- 5 (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

- 10 **29.** (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

(a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;

- 15 (b) be made in or to the effect of the prescribed form;

(c) contain such information as is provided for by the prescribed form; and

- 20 (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

(2) Any such application—

(a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or

- 25 (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

- 30 (3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made
5 before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- 10 (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- 15 (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

20 **30.** (1) The Minister shall constitute a Medical Com-
mittee for the purposes of this Division. Medical
Commit-
tee.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- 25 (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in
30 a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not nominated for the purpose of paragraph (a) or (b) of
35 subsection two of this section the Minister may appoint any
medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

- (4) The Medical Committee shall consider every application referred to it under subsection two of section twenty-nine of this Act and shall, as soon as practicable after the application is referred to it, furnish to the Director-General a report in writing containing a recommendation whether or not an authority should be given to prescribe for or to supply to the person to whom the application relates any drug of addiction.

DIVISION 3.—Prohibited Drugs.

31. (1) The Governor may, by proclamation published in the Gazette, declare that this Division shall apply to any substance.
- (2) The Governor may in like manner repeal, alter or amend any proclamation issued in pursuance of subsection one of this section.

Applica-
tion of
this
Division
to drugs
other than
diamorphine.

32. (1) Any person who—
- (a) manufactures, prepares, sells, distributes, supplies, or otherwise deals in any prohibited drug;
- (b) has in his possession any prohibited drug; or
- (c) uses any prohibited drug,
- shall be guilty of an offence against this Division.

Prohibi-
tion of
manufacture,
etc., of
prohibited
drugs.

- (2) Any prohibited drug in the possession of any person may be seized by any member of the police force and such prohibited drug shall be forfeited to Her Majesty.

- (3) Any prohibited drug in the order or disposition of any person shall be deemed to be in his possession.

33. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

Penalties.

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.

GENERAL.

34. (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 substance specified in any Schedule of the Poisons List. Hawking, etc., of poisons.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice. Committee may require information as to substances.

Poisons.

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

- 5 (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.

36. (1) No person shall—

- (a) whether on or about his premises or elsewhere—
- 10 (i) install any automatic machine for the sale or supply of any substance specified in any Schedule of the Poisons List; or
- (ii) sell or supply any substance so specified by means of any automatic machine; or
- 15 (b) allow, permit or suffer any such automatic machine to be installed on his premises; or
- (c) place or allow, permit or suffer to be placed any such substance in any automatic machine on his premises or under his control; or
- 20 (d) allow, permit or suffer any person to purchase or be supplied with or otherwise obtain any such substance by means of any automatic machine on the premises or under the control of such first-mentioned person.

Selling
poisons,
etc., by
automatic
machines
prohibited.

- 25 (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
- 30 exceeding twenty dollars for each day on which any offence under this section is continued after conviction by any court.

- 37.** (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or
- 35 supply of any substance specified in the order which in his opinion
- Prohibition
on sale,
etc., of any
poison,
restricted
substance or
drug of
addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made under subsection one of this section shall be guilty of an offence against this Act.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which—

Calculation of percentages in case of liquid preparations.

(a) one gramme of the substance, if a solid; or

(b) 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.

39. In any legal proceedings under this Act a certificate purporting to be signed by the Under Secretary and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without proof of the signature of the person appearing to have signed the certificate or that he was the Under Secretary, be prima facie evidence of the fact stated in the certificate.

Certificate of Under Secretary prima facie evidence.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

Proof of certificate of an analyst.

(2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely :—

- (a) that it is a poison or poisonous; or
- (b) that it consists of or contains poison; or
- (c) that it is a restricted substance; or
- (d) that it is a drug of addiction,

then in every such case—

- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
- (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
- (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

43.

Poisons.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the Under Secretary may—

Powers of
entry and
search.

- 10 (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- 15 (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- 20 (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

(2) Upon complaint on oath before a justice that the complainant suspects or believes that—

- 30 (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- 35 (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or
any intended transaction or dealing which would,
if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint
5 for the complainant so suspecting or believing, that justice
may grant a search warrant authorising any member of the
police force named in the warrant, at any time 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
10 search the premises and any persons found therein.

(3) Where a member of the police force searching
any premises or person pursuant to a warrant granted under
subsection two of this section has reasonable ground for
suspecting that—

- 15 (a) an offence against this Act has been committed in
relation to any prescribed restricted substance
referred to in section sixteen of this Act, any drug
of addiction or any prohibited drug which he finds
in those premises or in the possession of any persons
20 found therein; or
(b) any document which he so finds is a document
referred to in paragraph (b) of subsection two
of this section,

that member of the police force may seize and detain that
25 substance or drug, or that document, as the case may be.

(4) Any person who—

- (a) wilfully delays or obstructs any member of the
police force or other person in the exercise of his
powers under this section; or
30 (b) fails to produce or conceals any books, documents,
stocks, substance or drug which he is required to
produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any
35 provision of this Act or acts in contravention of or fails to
comply with any provision of this Act or any regulation
for which no other penalty is expressly provided shall be
liable to a penalty not exceeding two hundred dollars.

45.

Poisons.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalties.

5 46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall— Publication, etc., of regulations, etc.

- (a) be published in the Gazette;
- 10 (b) take effect from the date of publication or from a later date to be specified in the regulations or proclamation or order; and
- 15 (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.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations, proclamation or order have or has been laid before such House disallowing the regulations, 20 proclamation or order or part thereof, such regulations, proclamation or order or part, as the case may be, shall thereupon cease to have effect.

PART VI.

AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
25 SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection : — Amendment of Act No. 40, 1900. Sec. 52A.

- 30 (6) In this section "drug" has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts. (Culpable driving.)

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph : —

Amendment
of Act No.
5, 1909.
Sec. 5.
(Driver to
give his
name and
address
when
required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two.
No. 7, 1927 ..	Police Offences Amendment (Drugs) Act, 1927.	The whole.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	The whole, except section one and paragraph (b) of section three.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956 ..	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966
[35c]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 March, 1966, A.M.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1966.

An Act relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith.

BE

Poisons.

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Poisons Act, 1966". Short title and commencement.

(2) Except as provided in subsection three of this section, 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.

(3) The provisions of this Act relating to the nomination and appointment of members of the Committee shall commence upon the day upon which Her Majesty's assent to this Act is signified.

(4) The members of the Committee first appointed under this Act shall assume office upon the day appointed and notified under subsection two of this section in respect of Division 1 of Part II of this Act.

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

Divisions of Act.

PART I.—PRELIMINARY—ss. 1–5.

PART II.—POISONS ADVISORY COMMITTEE AND POISONS LIST—ss. 6–8.

DIVISION 1.—Poisons Advisory Committee—ss. 6, 7.

DIVISION 2.—Poisons List—s. 8.

PART III.—POISONS AND RESTRICTED SUBSTANCES —ss. 9–19.

DIVISION 1.—Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances—ss. 9–18.

DIVISION 2.—Exemptions—s. 19.

PART

Poisons.

PART IV.—DRUGS OF ADDICTION AND PROHIBITED
DRUGS—ss. 20–33.

DIVISION 1.—*Restrictions on Possession, Manufac-
ture, Sale, etc., of Drugs of Addiction—ss.*
20–26.

DIVISION 2.—*Restrictions on Prescribing Drugs of
Addiction—ss.* 27–30.

DIVISION 3.—*Prohibited Drugs—ss.* 31–33.

PART V.—GENERAL—ss. 34–46.

PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS
AMENDED BY SUBSEQUENT ACTS, AND MOTOR
TRAFFIC ACT, 1909, AS AMENDED BY SUBSE-
QUENT ACTS—ss. 47, 48.

SCHEDULE.

3. (1) The enactments mentioned in the Schedule to Repeal and
this Act are, to the extent therein expressed, hereby repealed. savings.

(2) Any license issued under section nine of the
Poisons Act, 1952, as amended by subsequent Acts, and in
force immediately before the commencement of section ten
of this Act, shall be deemed to be a license issued under
section ten of this Act.

(3) Notwithstanding subsection one of this section,
a person required by section twelve, thirteen, fourteen or
fifteen of the Poisons Act, 1952–1965, to preserve any book,
letter, telegram, radiogram or order referred to in any of those
sections for any period shall continue to preserve that book,
letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter Interpret-
otherwise indicates or requires— tation.

“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 Poisons Advisory Committee
constituted under section six of this Act.

“Container”,

Poisons.

- 5 “Container”, when used in relation to any substance,
 material, body or thing referred to in this Act,
 means any vessel, bottle, tube, capsule, tin, box,
 case, wrapper, cover or other like receptacle or
 envelope which immediately contains such sub-
 stance, material, body or thing.
- 10 “Dentist” means a person registered, or deemed to be
 registered, as a dentist under the Dentists Act, 1934,
 as amended by subsequent Acts.
- 15 “Drug of addiction” means any substance specified in
 Schedule Eight of the Poisons List.
- “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 poison,
 restricted substance or drug of addiction; and
 “labelled” has a corresponding interpretation.
- “License” means a valid and unexpired license or
 renewal of a license.
- 20 “Package”, when used in relation to any substance,
 material, body or thing referred to in this Act,
 includes every means by which such substance,
 material, body or thing may, for transport or for
 carriage or for storage or for sale, be cased, covered,
 enclosed, contained or packed.
- 25 “Pharmacist” means a practising pharmacist within the
 meaning of the Pharmacy Act, 1964, as amended
 by subsequent Acts.
- 30 “Pharmacy trainee” means a pharmacist within the
 meaning of the Pharmacy Act, 1964, as amended
 by subsequent Acts, not being a practising phar-
 macist within the meaning of that Act, as so amended,
 but who is employed in the business of a practising
 pharmacist within the meaning of that Act, as so
 amended.
- 35 “Poison” means any substance specified in Schedule
 One, Schedule Two, Schedule Three, Schedule
 Five, Schedule Six, or Schedule Seven of the
 Poisons List.
- 40 “Poisons List” means the list proclaimed under section
 eight of this Act as in force for the time being.
- “Prescribed”

Poisons.

"Prescribed" means prescribed by this Act or by the regulations.

"Prohibited drug" means—

- 5 (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

10 "Public institution" means—

- (a) any Government Department, public hospital, or university within New South Wales; or
- 15 (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.

"Regulations" means regulations made under this Act.

20 "Restricted substance" means any substance specified in Schedule Four of the Poisons List.

"Sell" includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and "sale" and each of the other derivations of "sell" have corresponding interpretations.

30 "Substance" includes preparation or admixture and all salts and derivatives of any substance.

"Therapeutic use" means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
 - 35 (b) influencing, inhibiting or modifying a physiological process,
- of a man or animal.

"Under

Poisons.

“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

5 “Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

10 (a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any
15 Schedule of the Poisons List; and

(b) includes sale or supply to other persons in wholesale quantities in the ordinary course of wholesale dealing and for use in
20 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 any such substance for use,
25 but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

- (a) by reference to any one or more of the following :—
- 30 (i) the common or scientific name of the substance;
- (ii) any class of substances;
- (iii) the composition of the substance;
- (iv) the purpose for which the substance may be
35 used;
- (v) the manner in which the substance is packed; or

(vi)

Poisons.

- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
- 5 (b) in any other manner so specified.
5. (1) The Minister may from time to time, by order published in the Gazette, exempt— Exemption from operation of Act.
- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
- 10 (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,
- specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the
- 15 order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.
- (2) The provisions of subsection one of this section
- 20 do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

25 DIVISION 1.—*Poisons Advisory Committee.*

6. (1) For the purposes of this Act there shall be a Poisons Advisory Committee which shall consist of fourteen members. Poisons Advisory Committee.
- (2) The members of the Committee shall be—
- 30 (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;
- (b)

Poisons.

- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- (g) eight members appointed by the Governor (in this section referred to as "appointed members") of whom—
- (i) one shall be a representative of the University of New South Wales;
 - (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
 - (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
 - (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
 - (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch);
 - (vii) one shall be a representative of the Country Traders' Association of New South Wales; and
 - (viii) one shall be a representative of the Pharmaceutical Society of New South Wales.

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

(4)

Poisons.

(4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.

5 If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

(5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an
10 equality of votes, a second or casting vote.

(6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

15 (7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

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

20 (9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.

25 Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

30 (10) An appointed member shall be deemed to have vacated his office if he—

(a) dies;

(b) resigns his office by writing under his hand addressed to the Governor;

35 (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;

(d)

Poisons.

(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 Committee; or

(e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

7. (1) The Committee may initiate and refer to the Minister—
Functions of Committee.

(a) recommendations for making, altering or repealing any regulation under this Act;

(b) recommendations for amending the Poisons List.

(2)

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—Poisons List.

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section.

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

- (ii) with which excessive unsupervised self-medication is unlikely; and
- (iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him by the Committee.

(5)

Poisons.

(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection 5 five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- 10 (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommenda-
15 tion of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.*

20 **9. (1)** Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
- 25 (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.

Sale of
certain
substances
prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

10. (1) The Under Secretary may issue a license to sell substances specified in Schedule One, Two or Three of the Poisons List to any person who—

Licenses
to sell
poisons.

- 15 (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- 20 (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

30 (b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- 35 (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

11.

Poisons.

11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required.

Sale of certain poisons to be entered in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by correspondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

(a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

- (b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

5 **13.** (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of
10 the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by telegram or radiogram.

(2) No person shall sell any such poison so ordered
15 to any person who is unknown to the vendor.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are
20 fulfilled, apply where—

Modification of section 11.

- (a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and
(b) the purchase is made by him for the purpose of his profession.

25 (2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
30 (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary
35 surgeon;

(c)

Poisons.

- (c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;
 - (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
 - (e) preserve the order for a period of five years from the date on which the order is received by him.
- 10 (3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his
- 15 profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange
- 20 for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.
- (4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the
- 25 vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.
- 30 15. No person shall sell any substance specified in Schedule One of the Poisons List—
- (a) to any person who is under eighteen years of age; or
- 205—B (b)
- Restrictions as to the sale of certain poisons

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

5 (i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and

10 (ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

15 **16.** (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

(a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or

20 (b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

(3) A person shall not—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

30 (i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or

35 (ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

Poisons.

or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

5 (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or

10 (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

(4) Any prescribed restricted substance in the order
15 or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed
20 restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

(a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or

25 (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

30 (a) the issue, renewal and cancellation of licenses under this Part;

(b) the colouring of any poisons and restricted substances;

35 (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

(d)

Regulations
under
Part III.

Poisons.

- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- 5 (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- 10 (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- 15 (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- 20 (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- 25 (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- 30 (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

- (2) A regulation made under this Part may apply—
- (a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;
 - (b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.

18. Subject to this Act, any person who—
- (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or
 - (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,

Penalty
for
offences
under
Part III.

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

DIVISION 2.—Exemptions.

19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.
- (2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

Limitation
of applica-
tion of
certain
provisions
of Divi-
sion 1.

(3)

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

(a) made up or compounded as a medicine by—

5 (i) a pharmacist acting in the lawful practice of his profession as such; or

(ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,

10 on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;

(b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;

15 (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal treatment;

20 but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

(a) photographic materials for the purpose of photography;

30 (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or

35 (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction.*

5 **20.** In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-
tation.

10 “Indian hemp” means the fresh or dried aerial parts of the plant known as *Cannabis Sativa* L., whether or not the resin has been extracted therefrom, and any resinous or other extract obtained from that plant, by whatever name those parts or extracts are called.

15 “Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

 “Owner”, in relation to any premises, includes the person entitled to receive the rent of premises and the person to whom the rent of the premises is paid.

20 “Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

25 “Smoking” includes inhaling fumes produced by heating or burning any substance, and “smokes” has a corresponding interpretation.

21. (1) If any person—

- 30 (a) manufactures, sells, or otherwise deals in prepared opium or Indian hemp;
- (b) has in his possession any prepared opium or Indian hemp;
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation
- Offences relating to prepared opium and other drugs of addiction.

Poisons.

- preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp ;
- 5 (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp ;
- 10 (e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection ;
- 15 (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking ; or
- (g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp ;
- 20 he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

- 25 (a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug ;
- (b) he is otherwise authorised under the regulations to be in possession of the drug ; or
- 30 (c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

(3) A person shall not be guilty of an offence under 35 subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

- 5 (4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters Forging,
10 or utters, knowing it to be forged or fraudulently altered, any etc.,
prescription of a medical practitioner or veterinary surgeon prescriptions.
including any drug of addiction shall be guilty of an offence against this Division.

(2) Any person who—

- 15 (a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtains from any medical practitioner or veterinary surgeon any prescription including any drug of addiction;

- 20 (ii) induces any pharmacist to dispense any forged or fraudulently altered prescription, including a drug of addiction, or any prescription obtained in contravention of this paragraph knowing it to be forged or
25 so altered or obtained; or

- (b) is in actual possession of any forged or fraudulently altered prescription including a drug of addiction or any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be
30 forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representation (whether verbal, or in writing, or by conduct) obtains or
attempts to obtain from any medical practitioner, pharmacist
35 or veterinary surgeon any drug of addiction shall be guilty of an offence against this Division. Obtaining drug by false representation.

24.

Poisons.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

- 5 (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- 10 (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority;
- 15 (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- 20 (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- 25 (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- 30 (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- 35 (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

(2)

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

- (a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—
 - 5 (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
 - (ii) carrying on at his shop the business of selling by retail, dispensing, or compound-
10 ing that drug;
- (b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary
15 surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;
- (c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other
20 persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;
- 25 (d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;
- 30 (e) the withdrawal of any such license or authority by the Under Secretary; and
- (f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license
35 or authority.

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act,
40 1908, as amended by subsequent Acts. (b)

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

(a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and

(b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other than persons or classes of persons so specified.

25. Any person—

(a) who acts in contravention of or fails to comply with any regulation made under this Division;

(b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or

(c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which

Further offences against this Division.

is

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

5 shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years,
10 or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty.

(2) The court before which the offender was convicted of an offence against this Division may order any
15 forfeited 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
20 of any license issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be sentenced to imprisonment without the option of a fine or to
25 pay a fine exceeding one hundred dollars, if the court 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
30 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as
35 if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division 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.

(6) In any proceedings against a person for an offence against this Division 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.

DIVISION 2.—Restrictions on Prescribing Drugs of Addiction.

27. In this Division—

15 “Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

25 “Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

28. A medical practitioner shall not prescribe for or supply to—

35 (a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his knowledge, been prescribed or supplied by any other

Inter-
pretation.

Prohibition on
prescribing
drugs of
addiction
in certain
cases.

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- 5 (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

- 10 **29.** (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

(a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;

- 15 (b) be made in or to the effect of the prescribed form;

(c) contain such information as is provided for by the prescribed form; and

- 20 (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

(2) Any such application—

- (a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or

- 25 (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

- 30 (3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made
5 before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- 10 (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- 15 (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

20 **30.** (1) The Minister shall constitute a Medical Com-
mittee for the purposes of this Division. Medical
Commit-
tee.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- 25 (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in
30 a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not
35 subsection two of this section the Minister may appoint any
medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

- (4) The Medical Committee shall consider every application referred to it under subsection two of section twenty-nine of this Act and shall, as soon as practicable after the application is referred to it, furnish to the Director-General a report in writing containing a recommendation whether or not an authority should be given to prescribe for or to supply to the person to whom the application relates any drug of addiction.

DIVISION 3.—Prohibited Drugs.

31. (1) The Governor may, by proclamation published in the Gazette, declare that this Division shall apply to any substance.

Application of this Division to drugs other than diamorphine.

(2) The Governor may in like manner repeal, alter or amend any proclamation issued in pursuance of subsection one of this section.

32. (1) Any person who—
(a) manufactures, prepares, sells, distributes, supplies, or otherwise deals in any prohibited drug;
(b) has in his possession any prohibited drug; or
(c) uses any prohibited drug,

Prohibition of manufacture, etc., of prohibited drugs.

shall be guilty of an offence against this Division.

- (2) Any prohibited drug in the possession of any person may be seized by any member of the police force and such prohibited drug shall be forfeited to Her Majesty.

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

33. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

Penalties.

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.

GENERAL.

34. (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 substance specified in any Schedule of the Poisons List.

Hawking,
etc., of
poisons.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice.

Committee
may require
information
as to
substances.

(2)

Poisons.

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

5 (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.

36. (1) No person shall—

(a) whether on or about his premises or elsewhere—

10 (i) install any automatic machine for the sale or supply of any substance specified in any Schedule of the Poisons List; or

(ii) sell or supply any substance so specified by means of any automatic machine; or

15 (b) allow, permit or suffer any such automatic machine to be installed on his premises; or

(c) place or allow, permit or suffer to be placed any such substance in any automatic machine on his premises or under his control; or

20 (d) allow, permit or suffer any person to purchase or be supplied with or otherwise obtain any such substance by means of any automatic machine on the premises or under the control of such first-mentioned person.

25 (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
30 exceeding twenty dollars for each day on which any offence under this section is continued after conviction by any court.

37. (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or
35 supply of any substance specified in the order which in his
opinion Prohibition on sale, etc., of any poison, restricted substance or drug of addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made
5 under subsection one of this section shall be guilty of an offence against this Act.

38. For the purpose of the Poisons List, percentages in
the case of liquid preparations shall (unless other provision
in that behalf is made by regulations) be calculated on the
15 basis that a preparation containing one per centum of any
substance means a preparation in which—

(a) one gramme of the substance, if a solid; or

(b) one millilitre of the substance, if a liquid,

15 is contained in every one hundred millilitres of the preparation,
and so in proportion for any greater or less percentage.

39. In any legal proceedings under this Act a certificate
purporting to be signed by the Under Secretary and to certify
that any person is or is not a person who holds a license,
permit or authority under this Act shall, without proof of
20 the signature of the person appearing to have signed the
certificate or that he was the Under Secretary, be prima facie
evidence of the fact stated in the certificate.

40. (1) Any analyst analysing any substance submitted
to him may give a certificate of the result of the analysis.

25 (2) In any legal proceedings under this Act the
production of a certificate, purporting to be signed by an
analyst, shall be prima facie evidence of the identity of the
substance analysed, and of the result of the analysis, without
proof of the signature, employment or appointment of the
30 person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means
any person employed by the Government of New South Wales
as an analyst or any person appointed by the Governor as an
analyst under the Pure Food Act, 1908, as amended by
35 subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely : —

Evidence in
prosecu-
tions
under this
Act.

- (a) that it is a poison or poisonous; or
 - (b) that it consists of or contains poison; or
 - (c) that it is a restricted substance; or
 - (d) that it is a drug of addiction,
- then in every such case—
- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
 - (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
 - (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

43.

Poisons.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the
5 Under Secretary may—

Powers of
entry and
search.

- 10 (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- 15 (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- 20 (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

(2) Upon complaint on oath before a justice that
25 the complainant suspects or believes that—

- 30 (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating
35 to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or
any intended transaction or dealing which would,
if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint
5 for the complainant so suspecting or believing, that justice
may grant a search warrant authorising any member of the
police force named in the warrant, at any time 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
10 search the premises and any persons found therein.

(3) Where a member of the police force searching
any premises or person pursuant to a warrant granted under
subsection two of this section has reasonable ground for
suspecting that—

15 (a) an offence against this Act has been committed in
relation to any prescribed restricted substance
referred to in section sixteen of this Act, any drug
of addiction or any prohibited drug which he finds
in those premises or in the possession of any persons
20 found therein; or

(b) any document which he so finds is a document
referred to in paragraph (b) of subsection two
of this section,

that member of the police force may seize and detain that
25 substance or drug, or that document, as the case may be.

(4) Any person who—

(a) wilfully delays or obstructs any member of the
police force or other person in the exercise of his
powers under this section; or

30 (b) fails to produce or conceals any books, documents,
stocks, substance or drug which he is required to
produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any
35 provision of this Act or acts in contravention of or fails to
comply with any provision of this Act or any regulation
for which no other penalty is expressly provided shall be
liable to a penalty not exceeding two hundred dollars.

45.

Poisons.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalties.

5 46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall— Publication, etc., of regulations, etc.

(a) be published in the Gazette;

10 (b) take effect from the date of publication or from a later date to be specified in the regulations or proclamation or order; and

15 (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.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations, proclamation or order have or has been laid before such House disallowing the regulations, proclamation or order or part thereof, such regulations, 20 proclamation or order or part, as the case may be, shall thereupon cease to have effect.

PART VI.

AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
25 SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection : — Amendment of Act No. 40, 1900. Sec. 52A.

30 (6) In this section "drug" has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts. (Culpable driving.)

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph :—

Amendment of Act No. 5, 1909. Sec. 5. (Driver to give his name and address when required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two.
No. 7, 1927	Police Offences Amendment (Drugs) Act, 1927.	The whole.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	The whole, except section one and paragraph (b) of section three.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

[35c]

No. , 1966.

A BILL

Relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith.

[MR. JAGO;—16 March, 1966.]

BE

Poisons.

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Poisons Act, 1966". Short title and commencement.

(2) Except as provided in subsection three of this section, 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.

(3) The provisions of this Act relating to the nomination and appointment of members of the Committee shall commence upon the day upon which Her Majesty's assent to this Act is signified.

(4) The members of the Committee first appointed under this Act shall assume office upon the day appointed and notified under subsection two of this section in respect of Division 1 of Part II of this Act.

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

Divisions of Act.

PART I.—PRELIMINARY—ss. 1–5.

25 PART II.—POISONS ADVISORY COMMITTEE AND POISONS LIST—ss. 6–8.

DIVISION 1.—*Poisons Advisory Committee*—ss. 6, 7.

DIVISION 2.—*Poisons List*—s. 8.

PART III.—POISONS AND RESTRICTED SUBSTANCES—ss. 9–19.

30 DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances*—ss. 9–18.

DIVISION 2.—*Exemptions*—s. 19.

PART

Poisons.

PART IV.—DRUGS OF ADDICTION AND PROHIBITED
DRUGS—ss. 20–33.

DIVISION 1.—*Restrictions on Possession, Manufac-
ture, Sale, etc., of Drugs of Addiction*—ss.
20–26.

DIVISION 2.—*Restrictions on Prescribing Drugs of
Addiction*—ss. 27–30.

DIVISION 3.—*Prohibited Drugs*—ss. 31–33.

PART V.—GENERAL—ss. 34–46.

10 PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS
AMENDED BY SUBSEQUENT ACTS, AND MOTOR
TRAFFIC ACT, 1909, AS AMENDED BY SUBSE-
QUENT ACTS—ss. 47, 48.

SCHEDULE.

15 3. (1) The enactments mentioned in the Schedule to **Repeal and**
this Act are, to the extent therein expressed, hereby repealed. **savings.**

(2) Any license issued under section nine of the
Poisons Act, 1952, as amended by subsequent Acts, and in
force immediately before the commencement of section ten
20 of this Act, shall be deemed to be a license issued under
section ten of this Act.

(3) Notwithstanding subsection one of this section,
a person required by section twelve, thirteen, fourteen or
fifteen of the Poisons Act, 1952–1965, to preserve any book,
25 letter, telegram, radiogram or order referred to in any of those
sections for any period shall continue to preserve that book,
letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter **Interpre-**
otherwise indicates or requires— **tation.**

30 “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
35 of the sale or supply.

“Committee” means the Poisons Advisory Committee
constituted under section six of this Act.

“Container”,

Poisons.

- 5 “Container”, when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.
- 10 “Dentist” means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.
- 15 “Drug of addiction” means any substance specified in Schedule Eight of the Poisons List.
- “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 poison, restricted substance or drug of addiction; and “labelled” has a corresponding interpretation.
- “License” means a valid and unexpired license or renewal of a license.
- 20 “Package”, when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.
- 25 “Pharmacist” means a practising pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts.
- 30 “Pharmacy trainee” means a pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts, not being a practising pharmacist within the meaning of that Act, as so amended, but who is employed in the business of a practising pharmacist within the meaning of that Act, as so amended.
- 35 “Poison” means any substance specified in Schedule One, Schedule Two, Schedule Three, Schedule Five, Schedule Six, or Schedule Seven of the Poisons List.
- 40 “Poisons List” means the list proclaimed under section eight of this Act as in force for the time being.
- “Prescribed”

Poisons.

"Prescribed" means prescribed by this Act or by the regulations.

"Prohibited drug" means—

- 5 (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

10 "Public institution" means—

- (a) any Government Department, public hospital, or university within New South Wales; or
- 15 (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.

"Regulations" means regulations made under this Act.

20 "Restricted substance" means any substance specified in Schedule Four of the Poisons List.

"Sell" includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and "sale" and each of the other derivations of "sell" have corresponding interpretations.

30 "Substance" includes preparation or admixture and all salts and derivatives of any substance.

"Therapeutic use" means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
 - 35 (b) influencing, inhibiting or modifying a physiological process,
- of a man or animal.

"Under

Poisons.

“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

5 “Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

10 (a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any
15 Schedule of the Poisons List; and

(b) includes sale or supply to other persons in wholesale quantities in the ordinary course of wholesale dealing and for use in
20 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 any such substance for use,
25 but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

(a) by reference to any one or more of the following :—

- 30 (i) the common or scientific name of the substance;
(ii) any class of substances;
(iii) the composition of the substance;
(iv) the purpose for which the substance may be
35 used;
(v) the manner in which the substance is packed; or

(vi)

Poisons.

- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
- 5 (b) in any other manner so specified.
5. (1) The Minister may from time to time, by order published in the Gazette, exempt— Exemption from operation of Act.
- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
- 10 (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,
- specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the
- 15 order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.
- (2) The provisions of subsection one of this section
- 20 do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

- 25 DIVISION 1.—*Poisons Advisory Committee.*
6. (1) For the purposes of this Act there shall be a Poisons Poisons Advisory Committee which shall consist of thirteen Poisons Advisory Committee. members.
- (2) The members of the Committee shall be—
- 30 (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;
- (b)

Poisons.

- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- (g) seven members appointed by the Governor (in this section referred to as "appointed members") of whom—
 - (i) one shall be a representative of the University of New South Wales;
 - (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
 - (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
 - (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
 - (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch); and
 - (vii) one shall be a representative of the Country Traders' Association of New South Wales.

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

(4)

Poisons.

(4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.

5 If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

(5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an
10 equality of votes, a second or casting vote.

(6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

15 (7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

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

20 (9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.

25 Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

(10) An appointed member shall be deemed to have
30 vacated his office if he—

(a) dies;

(b) resigns his office by writing under his hand addressed to the Governor;

35 (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts; (d)

Poisons.

- (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 Committee; or
- (e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

7. (1) The Committee may initiate and refer to the Minister—
- (a) recommendations for making, altering or repealing any regulation under this Act;
- (b) recommendations for amending the Poisons List.
- (2)

Functions
of
Committee.

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—Poisons List.

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section.

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

- (ii) with which excessive unsupervised self-medication is unlikely; and
- (iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him

by the Committee.

(5)

Poisons.

(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection 5 five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- 10 (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommenda-
15 tion of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.

20 9. (1) Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
- 25 (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.

Sale of
certain
substances
prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

10. (1) The Under Secretary may issue a license to sell substances specified in Schedule One, Two or Three of the Poisons List to any person who—

Licenses
to sell
poisons.

- 15 (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- 20 (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

30 (b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- 35 (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

Poisons.

11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required.

Sale of
certain
poisons to
be entered
in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by
corres-
pondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

(a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

(b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

5 13. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of
10 the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by telegram or radiogram.

(2) No person shall sell any such poison so ordered
15 to any person who is unknown to the vendor.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are
20 fulfilled, apply where—

Modification of section 11.

(a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and

(b) the purchase is made by him for the purpose of his profession.

25 (2) The conditions to be fulfilled for the purposes of this section are that the vendor—

(a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
30

(b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary surgeon;
35

(c)

Poisons.

- (c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;
- (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
- (e) preserve the order for a period of five years from the date on which the order is received by him.

(3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

15. No person shall sell any substance specified in Schedule One of the Poisons List—

- (a) to any person who is under eighteen years of age; or

205—B

(b)

Restrictions as to the sale of certain poisons.

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

- 5 (i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and
- (ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

15 **16.** (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

- (a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or
- 20 (b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

(3) A person shall not—

- (a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—
 - 30 (i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or
 - (ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

Poisons.

or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

5 (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or

10 (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

(4) Any prescribed restricted substance in the order
15 or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed
20 restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

(a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or

25 (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

30 (a) the issue, renewal and cancellation of licenses under this Part;

(b) the colouring of any poisons and restricted substances;

35 (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

(d)

Regulations
under
Part III.

Poisons.

- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- 5 (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- 10 (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- 15 (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- 20 (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- 25 (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- 30 (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

(2) A regulation made under this Part may apply—

(a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;

(b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.

18. Subject to this Act, any person who—

10 (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or

15 (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

DIVISION 2.—Exemptions.

25 19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.

Limitation of application of certain provisions of Division 1.

30 (2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

(3)

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

(a) made up or compounded as a medicine by—

5 (i) a pharmacist acting in the lawful practice of his profession as such; or

(ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,

10 on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;

(b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;

15 (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal
20 treatment;

but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the
25 name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

(a) photographic materials for the purpose of photography;

30 (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or

35 (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale,
etc., of Drugs of Addiction.*

- 5 **20.** In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-
tation.

10 “Indian hemp” means the fresh or dried aerial parts of
the plant known as *Cannabis Sativa* L., whether
or not the resin has been extracted therefrom, and
any resinous or other extract obtained from that
plant, by whatever name those parts or extracts
are called.

15 “Opium” means the spontaneously coagulated juice
obtained from the capsules of the opium poppy
(*Papaver somniferum*).

 “Owner”, in relation to any premises, includes the
person entitled to receive the rent of premises and
the person to whom the rent of the premises is
paid.

20 “Prepared opium” means any preparation of opium in
a form capable of being used for the purpose of
smoking, and includes dross and any other residues
remaining after opium has been smoked.

25 “Smoking” includes inhaling fumes produced by heating
or burning any substance, and “smokes” has a
corresponding interpretation.

21. (1) If any person—

- (a) manufactures, sells, or otherwise deals in prepared
opium or Indian hemp;
30 (b) has in his possession any prepared opium or Indian
hemp;
(c) being the occupier of any premises permits those
premises to be used for the purpose of the
preparation
- Offences
relating to
prepared
opium
and
other
drugs of
addiction.

Poisons.

- preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp ;
- 5 (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp ;
- 10 (e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection ;
- 15 (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking ; or
- (g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp ;
- 20 he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

- 25 (a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug ;
- (b) he is otherwise authorised under the regulations to be in possession of the drug ; or
- 30 (c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

(3) A person shall not be guilty of an offence under
35 subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he
proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

- 5 (4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters
10 or utters, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner or veterinary surgeon
including any drug of addiction shall be guilty of an offence
against this Division. Forging,
etc.,
prescriptions.

(2) Any person who—

- 15 (a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

- (i) obtains from any medical practitioner or
veterinary surgeon any prescription including
any drug of addiction;
20 (ii) induces any pharmacist to dispense any
forged or fraudulently altered prescription,
including a drug of addiction, or any
prescription obtained in contravention of
this paragraph knowing it to be forged or
25 so altered or obtained; or

- (b) is in actual possession of any forged or fraudulently
altered prescription including a drug of addiction
or any prescription obtained in contravention of
paragraph (a) of this subsection, knowing it to be
30 forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representa-
tion (whether verbal, or in writing, or by conduct) obtains or
attempts to obtain from any medical practitioner, pharmacist
35 or veterinary surgeon any drug of addiction shall be guilty
of an offence against this Division. Obtaining
drug by
false
representa-
tion.

24.

Poisons.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

Regulations.

- 5 (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and
10 subject to any conditions specified in the license or authority;
- (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- 15 (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- 20 (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- 25 (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- 30 (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- 35 (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

(2)

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

- (a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—
 - 5 (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
 - (ii) carrying on at his shop the business of selling by retail, dispensing, or compound-
10 ing that drug;
- (b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary
15 surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;
- (c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other
20 persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;
- 25 (d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;
- 30 (e) the withdrawal of any such license or authority by the Under Secretary; and
- (f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license
35 or authority.

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act,
40 1908, as amended by subsequent Acts. (b)

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences 5 (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under 10 the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug 15 or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

20 (a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and

(b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other 25 than persons or classes of persons so specified.

25. Any person—

(a) who acts in contravention of or fails to comply with any regulation made under this Division;

30 (b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or

35 (c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which is

Further
offences
against
this
Division.

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

5 shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, 10 or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty.

(2) The court before which the offender was convicted of an offence against this Division may order any 15 forfeited 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 20 of any license issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be sentenced to imprisonment without the option of a fine or to 25 pay a fine exceeding one hundred dollars, if the court 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 30 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as 35 if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division may be ordered to commence at the expiration of any term
5 of imprisonment imposed on that person for the same offence in addition to the fine.

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

DIVISION 2.—Restrictions on Prescribing Drugs of Addiction.

27. In this Division—

15 “Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely
20 to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

25 “Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

30 **28.** A medical practitioner shall not prescribe for or supply to—

(a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his
35 knowledge, been prescribed or supplied by any other

Interpre-
tation.

Prohibi-
tion on
prescribing
drugs of
addiction
in certain
cases.

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- 5 (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

- 10 **29.** (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

(a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;

- 15 (b) be made in or to the effect of the prescribed form;

(c) contain such information as is provided for by the prescribed form; and

- (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

20

(2) Any such application—

(a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or

- 25 (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

- 30 (3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- 10 (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- 15 (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

20 30. (1) The Minister shall constitute a Medical Com-
mittee for the purposes of this Division.

Medical
Commit-
tee.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- 25 (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in
30 a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not
35 subsection two of this section the Minister may appoint any
medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

(4) The Medical Committee shall consider every application referred to it under subsection two of section twenty-nine of this Act and shall, as soon as practicable after the application is referred to it, furnish to the Director-General a report in writing containing a recommendation whether or not an authority should be given to prescribe for or to supply to the person to whom the application relates any drug of addiction.

DIVISION 3.—Prohibited Drugs.

31. (1) The Governor may, by proclamation published in the Gazette, declare that this Division shall apply to any substance.

Application of this Division to drugs other than diamorphine.

(2) The Governor may in like manner repeal, alter or amend any proclamation issued in pursuance of subsection one of this section.

32. (1) Any person who—
(a) manufactures, prepares, sells, distributes, supplies, or otherwise deals in any prohibited drug;
(b) has in his possession any prohibited drug; or
(c) uses any prohibited drug,

Prohibition of manufacture, etc., of prohibited drugs.

shall be guilty of an offence against this Division.

25 (2) Any prohibited drug in the possession of any person may be seized by any member of the police force and such prohibited drug shall be forfeited to Her Majesty.

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

30 33. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

Penalties.

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.

GENERAL.

34. (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 substance specified in any Schedule of the Poisons List. Hawking,
etc., of
poisons.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice. Committee
may require
information
as to
substances.

(2)

Poisons.

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

5 (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.

36. (1) No person shall—

(a) whether on or about his premises or elsewhere—

10 (i) install any automatic machine for the sale or supply of any substance specified in any Schedule of the Poisons List; or

(ii) sell or supply any substance so specified by means of any automatic machine; or

15 (b) allow, permit or suffer any such automatic machine to be installed on his premises; or

(c) place or allow, permit or suffer to be placed any such substance in any automatic machine on his premises or under his control; or

20 (d) allow, permit or suffer any person to purchase or be supplied with or otherwise obtain any such substance by means of any automatic machine on the premises or under the control of such first-mentioned person.

25 (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
30 exceeding twenty dollars for each day on which any offence under this section is continued after conviction by any court.

37. (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or
35 supply of any substance specified in the order which in his
opinion Prohibition on sale, etc., of any poison, restricted substance or drug of addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made
5 under subsection one of this section shall be guilty of an offence against this Act.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the
10 basis that a preparation containing one per centum of any substance means a preparation in which—

Calculation of percentages in case of liquid preparations.

(a) one gramme of the substance, if a solid ; or

(b) one millilitre of the substance, if a liquid,

is contained in every one hundred millilitres of the preparation,
15 tion, and so in proportion for any greater or less percentage.

39. In any legal proceedings under this Act a certificate purporting to be signed by the Under Secretary and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without proof of
20 the signature of the person appearing to have signed the certificate or that he was the Under Secretary, be prima facie evidence of the fact stated in the certificate.

Certificate of Under Secretary prima facie evidence.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

Proof of certificate of an analyst.

25 (2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without
30 proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by
35 subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely : —

Evidence in
prosecu-
tions
under this
Act.

- (a) that it is a poison or poisonous; or
- (b) that it consists of or contains poison; or
- (c) that it is a restricted substance; or
- (d) that it is a drug of addiction,

then in every such case—

- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
- (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
- (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

Poisons.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the
5 Under Secretary may—

Powers of
entry and
search.

- 10 (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- 15 (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- 20 (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

25 (2) Upon complaint on oath before a justice that the complainant suspects or believes that—

- 30 (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- 35 (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or any intended transaction or dealing which would, if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint
5 for the complainant so suspecting or believing, that justice may grant a search warrant authorising any member of the police force named in the warrant, at any time 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
10 search the premises and any persons found therein.

(3) Where a member of the police force searching any premises or person pursuant to a warrant granted under subsection two of this section has reasonable ground for suspecting that—

15 (a) an offence against this Act has been committed in relation to any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug which he finds in those premises or in the possession of any persons
20 found therein; or

(b) any document which he so finds is a document referred to in paragraph (b) of subsection two of this section,

that member of the police force may seize and detain that
25 substance or drug, or that document, as the case may be.

(4) Any person who—

(a) wilfully delays or obstructs any member of the police force or other person in the exercise of his powers under this section; or

30 (b) fails to produce or conceals any books, documents, stocks, substance or drug which he is required to produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any
35 provision of this Act or acts in contravention of or fails to comply with any provision of this Act or any regulation for which no other penalty is expressly provided shall be liable to a penalty not exceeding two hundred dollars.

Poisons.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalties.

5 46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall— Publication, etc., of regulations, etc.

- (a) be published in the Gazette;
- 10 (b) take effect from the date of publication or from a later date to be specified in the regulations or proclamation or order; and
- 15 (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.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations, proclamation or order have or has been laid before such House disallowing the regulations, 20 proclamation or order or part thereof, such regulations, proclamation or order or part, as the case may be, shall thereupon cease to have effect.

PART VI.

AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
25 SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection :— Amendment of Act No. 40, 1900. Sec. 52A.

30 (6) In this section "drug" has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts. (Culpable driving.)

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph:—

Amendment of Act No. 5, 1909.
Sec. 5.
(Driver to give his name and address when required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two. The whole.
No. 7, 1927 ..	Police Offences Amendment (Drugs) Act, 1927.	The whole, except section one and paragraph (b) of section three.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 35 1937	Statute Law Revision Act, 1937.	The whole.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956 ..	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

[35c]

POISONS BILL, 1966.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to repeal the Poisons Act, 1952, and Parts VI and VIA of the Police Offences (Amendment) Act, 1908, and certain other enactments ;
- (b) to provide for the constitution of a Poisons Advisory Committee consisting of thirteen members and to define its functions;
- (c) to require the Poisons Advisory Committee to prepare a Poisons List consisting of eight Schedules, namely:—
 - Schedule One (Dangerous Poisons),
 - Schedule Two (Medicinal Poisons),
 - Schedule Three (Potent Substances),
 - Schedule Four (Restricted Substances),
 - Schedule Five (Domestic Poisons),
 - Schedule Six (Industrial and Agricultural Poisons),
 - Schedule Seven (Special Poisons),
 - Schedule Eight (Drugs of Addiction),and to provide for the proclamation of that List as the Poisons List for the purposes of the Act to give effect to this Bill ;
- (d) subject to certain exemptions, to prohibit the sale of any substance specified in Schedule One, Two or Three of the Poisons List except by a medical practitioner, pharmacist, dentist, veterinary surgeon or person licensed to sell those substances ;
- (e) subject to certain exemptions, to prohibit the sale of substances specified in Schedule Four of the Poisons List (in the Bill and hereinafter referred to as “restricted substances”) except by medical practitioners, dentists or veterinary surgeons or by pharmacists on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon ;
- (f) to authorise the Under Secretary, Department of Public Health, to issue, in certain circumstances, licenses to sell substances specified in Schedule One, Two or Three of the Poisons List ;
- (g) to require certain entries to be made in a book and certain other formalities to be complied with where a substance specified in Schedule One of the Poisons List is sold ;
- (h) to prohibit the sale of a substance specified in Schedule One of the Poisons List—
 - (i) to a person under the age of 18 years of age ;
 - (ii) except in certain circumstances, to a person unknown to the vendor ;

- (i) to prohibit a person having in his possession or attempting to obtain possession of a prescribed restricted substance unless—
 - (i) he is a medical practitioner, pharmacist, dentist or veterinary surgeon ;
or
 - (ii) he obtains or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon ;
- (j) to create certain offences with respect to fraudulently obtaining prescribed restricted substances ;
- (k) to empower the Governor to make regulations with respect to poisons and restricted substances ;
- (l) to create certain offences in relation to the possession or smoking of opium, prepared opium or Indian hemp ;
- (m) to make it an offence for any person to have in his possession any other substance specified in Schedule Eight of the Poisons List (in the Bill and hereinafter referred to as a "drug of addiction") unless he is licensed or authorised under the regulations to manufacture, sell, distribute, supply or be in possession of, the drug or unless the drug was supplied by a medical practitioner or veterinary surgeon or on and in accordance with a prescription complying with the regulations;
- (n) to create certain offences with respect to fraudulently obtaining drugs of addiction ;
- (o) to empower the Governor to make regulations with respect to drugs of addiction ;
- (p) to impose upon medical practitioners certain restrictions with respect to the prescribing of drugs of addiction ;
- (q) to prohibit the manufacture, sale, distribution, supply, dealing in, possession of, or use of, diamorphine and any other substance containing diamorphine and other prohibited drugs specified in a proclamation of the Governor ;
- (r) to prohibit the sale in any street or from house to house and the hawking or peddling or distribution free or as samples, except in certain circumstances, of any substance specified in the Poisons List ;
- (s) to prohibit the sale of any substance intended for therapeutic use unless—
 - (i) information as to its composition has been furnished to the Poisons Advisory Committee;
 - (ii) it is of the same composition as a substance specified in the Poisons List ;
 - (iii) it is of the same composition as a prescribed substance or belongs to a prescribed class of substances ; or
 - (iv) it was manufactured in or imported into New South Wales before the commencement of the Act to give effect to this Bill or is of the same composition as a substance so manufactured or imported ;

- (t) to prohibit the sale by means of automatic machines of any substance specified in any Schedule of the Poisons List ;
 - (u) to empower the Governor to make regulations prohibiting the sale, supply or use of any substance specified in any Schedule of the Poisons List if he is of opinion that it should not be sold, supplied or used pending the evaluation of its properties ;
 - (v) to make certain evidentiary provisions with respect to—
 - (i) the certificate of the Under Secretary as to whether a person does or does not hold a license, permit or authority under the Act to give effect to this Bill ;
 - (ii) the certificate of an analyst as to the identity of a substance analysed ; and
 - (iii) proving the nature of a substance by reference to the description under which it is commonly sold, to any inscription required by the regulations in respect of the substance or to the labelling of the container in a manner required by the regulations ;
 - (w) to provide that directors and officers of companies who knowingly and wilfully authorise or permit an offence under the Act to give effect to this Bill shall themselves be guilty of such an offence ;
 - (x) to empower members of the Police Force and persons authorised by the Under Secretary to enter and search the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug, and to enable a member of the Police Force or person so authorised to require the production of, and to inspect stocks of, and books relating to, any such substance or drug ;
 - (y) to empower a member of the Police Force on a warrant issued by any justice to enter any premises if that member suspects or believes that any prescribed restricted substance, drug of addiction or prohibited drug is, in contravention of the Act to give effect to this Bill, in the possession or under the control of any person in those premises, or that a document relating to any transaction or dealing concerning any such substance or drug is in the possession, or under the control, of any person in those premises ;
 - (z) to amend section 52A of the Crimes Act, 1900, as amended by subsequent Acts, and section 5 of the Motor Traffic Act, 1909, as amended by subsequent Acts, so as to define the expression "drug" for the purpose of the offence of culpable driving whilst under the influence of a drug, and the offence of driving a motor vehicle whilst under the influence of a drug ;
 - (aa) to make other amendments of an ancillary or consequential character.
-

PROOF

No. , 1966.

A BILL

Relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith.

[MR. JAGO;—16 March, 1966.]

BE

Poisons.

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
5 follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Poisons Act, 1966". Short title
and com-
mencement.

(2) Except as provided in subsection three of this
10 section, 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.

(3) The provisions of this Act relating to the nomina-
15 tion and appointment of members of the Committee shall
commence upon the day upon which Her Majesty's assent
to this Act is signified.

(4) The members of the Committee first appointed
under this Act shall assume office upon the day appointed
20 and notified under subsection two of this section in respect
of Division 1 of Part II of this Act.

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

Divisions
of Act.

PART I.—PRELIMINARY—ss. 1–5.

25 **PART II.—POISONS ADVISORY COMMITTEE AND
POISONS LIST—ss. 6–8.**

DIVISION 1.—Poisons Advisory Committee—ss. 6, 7.

DIVISION 2.—Poisons List—s. 8.

**PART III.—POISONS AND RESTRICTED SUBSTANCES
—ss. 9–19.**

30 **DIVISION 1.—Restrictions on Sale, Possession, etc.,
of Poisons and Restricted Substances—ss. 9–18.**

DIVISION 2.—Exemptions—s. 19.

PART

Poisons.

PART IV.—DRUGS OF ADDICTION AND PROHIBITED
DRUGS—ss. 20–33.

5 DIVISION 1.—*Restrictions on Possession, Manufac-
ture, Sale, etc., of Drugs of Addiction*—ss.
20–26.

DIVISION 2.—*Restrictions on Prescribing Drugs of
Addiction*—ss. 27–30.

DIVISION 3.—*Prohibited Drugs*—ss. 31–33.

PART V.—GENERAL—ss. 34–46.

10 PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS
AMENDED BY SUBSEQUENT ACTS, AND MOTOR
TRAFFIC ACT, 1909, AS AMENDED BY SUBSE-
QUENT ACTS—ss. 47, 48.

SCHEDULE.

15 3. (1) The enactments mentioned in the Schedule to ^{Repeal and}
this Act are, to the extent therein expressed, hereby repealed. ^{savings.}

(2) Any license issued under section nine of the
Poisons Act, 1952, as amended by subsequent Acts, and in
force immediately before the commencement of section ten
20 of this Act, shall be deemed to be a license issued under
section ten of this Act.

(3) Notwithstanding subsection one of this section,
a person required by section twelve, thirteen, fourteen or
fifteen of the Poisons Act, 1952–1965, to preserve any book,
25 letter, telegram, radiogram or order referred to in any of those
sections for any period shall continue to preserve that book,
letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter ^{Interpre-}
otherwise indicates or requires— ^{tation.}

30 “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
35 of the sale or supply.

“Committee” means the Poisons Advisory Committee
constituted under section six of this Act.

“Container”,

“Container”, when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.

“Dentist” means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.

“Drug of addiction” means any substance specified in Schedule Eight of the Poisons List.

“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 poison, restricted substance or drug of addiction; and “labelled” has a corresponding interpretation.

“License” means a valid and unexpired license or renewal of a license.

“Package”, when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.

“Pharmacist” means a practising pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts.

“Pharmacy trainee” means a pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts, not being a practising pharmacist within the meaning of that Act, as so amended, but who is employed in the business of a practising pharmacist within the meaning of that Act, as so amended.

“Poison” means any substance specified in Schedule One, Schedule Two, Schedule Three, Schedule Five, Schedule Six, or Schedule Seven of the Poisons List.

“Poisons List” means the list proclaimed under section eight of this Act as in force for the time being.

“Prescribed”

Poisons.

“Prescribed” means prescribed by this Act or by the regulations.

“Prohibited drug” means—

- 5 (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

10 “Public institution” means—

- (a) any Government Department, public hospital, or university within New South Wales; or
- 15 (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.

“Regulations” means regulations made under this Act.

20 “Restricted substance” means any substance specified in Schedule Four of the Poisons List.

“Sell” includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and “sale” and each of the other derivations of “sell” have corresponding interpretations.

30 “Substance” includes preparation or admixture and all salts and derivatives of any substance.

“Therapeutic use” means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
 - 35 (b) influencing, inhibiting or modifying a physiological process,
- of a man or animal.

“Under

Poisons.

“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

5 “Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

10 (a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any
15 Schedule of the Poisons List; and

(b) includes sale or supply to other persons in wholesale quantities in the ordinary course of wholesale dealing and for use in
20 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 any such substance for use,
25 but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

- (a) by reference to any one or more of the following : —
- 30 (i) the common or scientific name of the substance;
- (ii) any class of substances;
- (iii) the composition of the substance;
- (iv) the purpose for which the substance may be
35 used;
- (v) the manner in which the substance is packed; or

(vi)

Poisons.

- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
- 5 (b) in any other manner so specified.
5. (1) The Minister may from time to time, by order published in the Gazette, exempt— Exemption from operation of Act.
- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
- 10 (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,
- specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the
- 15 order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.
- (2) The provisions of subsection one of this section
- 20 do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

25 DIVISION 1.—*Poisons Advisory Committee.*

6. (1) For the purposes of this Act there shall be a Poisons Advisory Committee. Poisons Advisory Committee which shall consist of thirteen members.
- (2) The members of the Committee shall be—
- 30 (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;
- (b)

Poisons.

- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- (g) seven members appointed by the Governor (in this section referred to as "appointed members") of whom—
 - (i) one shall be a representative of the University of New South Wales;
 - (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
 - (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
 - (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
 - (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch); and
 - (vii) one shall be a representative of the Country Traders' Association of New South Wales.

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

(4)

Poisons.

(4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.

5 If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

(5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an
10 equality of votes, a second or casting vote.

(6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

15 (7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

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

20 (9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.

25 Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

(10) An appointed member shall be deemed to have
30 vacated his office if he—

(a) dies;

(b) resigns his office by writing under his hand addressed to the Governor;

35 (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;

(d)

Poisons.

(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 Committee; or

(e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

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

- (a) recommendations for making, altering or repealing any regulation under this Act;
- (b) recommendations for amending the Poisons List.

Functions
of
Committee.

(2)

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—Poisons List.

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section.

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

- (ii) with which excessive unsupervised self-medication is unlikely; and
- (iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him

by the Committee.

(5)

Poisons.

(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection 5 five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- 10 (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommenda-
15 tion of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.*

20 9. (1) Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
- 25 (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.

Sale of certain substances prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, 5 dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance 10 addressed to him.

10. (1) The Under Secretary may issue a license to sell ^{Licenses} substances specified in Schedule One, Two or Three of the ^{to sell} Poisons List to any person who— ^{poisons.}

- 15 (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- 20 (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of 25 the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

30 (b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- 35 (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

Poisons.

11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required.

Sale of certain poisons to be entered in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by correspondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

(a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

(b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

5 **13.** (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of
10 the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

Sales by telegram or radiogram.

(2) No person shall sell any such poison so ordered
15 to any person who is unknown to the vendor.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are
20 fulfilled, apply where—

Modifica-
tion of
section 11.

(a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and

(b) the purchase is made by him for the purpose of his profession.

25 (2) The conditions to be fulfilled for the purposes of this section are that the vendor—

(a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
30

(b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary surgeon;
35

(c)

Poisons.

(c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;

5 (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and

(e) preserve the order for a period of five years from the date on which the order is received by him.

10 (3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his
15 profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange
20 for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the
25 vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

30 15. No person shall sell any substance specified in Schedule One of the Poisons List—

(a) to any person who is under eighteen years of age;
or

205—B

(b)

Restrictions as to the sale of certain poisons.

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

5 (i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and

10 (ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

15 **16.** (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

(a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or

20 (b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

(3) A person shall not—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

30 (i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or

35 (ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

Offences relating to prescribed restricted substances.

Poisons.

or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

5 (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or

10 (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

15 (4) Any prescribed restricted substance in the order or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed
20 restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

(a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or

25 (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

30 (a) the issue, renewal and cancellation of licenses under this Part;

(b) the colouring of any poisons and restricted substances;

35 (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

(d)

Regulations
under
Part III.

Poisons.

- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- 5 (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- 10 (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- 15 (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- 20 (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- 25 (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- 30 (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

- (2) A regulation made under this Part may apply—
- (a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;
 - (b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.
18. Subject to this Act, any person who—
- (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or
 - (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,
- shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

Penalty
for
offences
under
Part III.

DIVISION 2.—Exemptions.

19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.
- (2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

Limitation
of applica-
tion of
certain
provisions
of Divi-
sion 1.

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

- (a) made up or compounded as a medicine by—
- 5 (i) a pharmacist acting in the lawful practice of his profession as such; or
- (ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,
- 10 on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;
- (b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;
- 15 (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal
- 20 treatment;

but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the

25 name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

- (a) photographic materials for the purpose of photography;
- 30 (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or
- 35 (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction.*

5 **20.** In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-
tation.

10 “Indian hemp” means the fresh or dried aerial parts of the plant known as *Cannabis Sativa* L., whether or not the resin has been extracted therefrom, and any resinous or other extract obtained from that plant, by whatever name those parts or extracts are called.

15 “Opium” means the spontaneously coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

 “Owner”, in relation to any premises, includes the person entitled to receive the rent of premises and the person to whom the rent of the premises is paid.

20 “Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

25 “Smoking” includes inhaling fumes produced by heating or burning any substance, and “smokes” has a corresponding interpretation.

21. (1) If any person—

- (a) manufactures, sells, or otherwise deals in prepared opium or Indian hemp;
- 30 (b) has in his possession any prepared opium or Indian hemp;
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation
- Offences
relating to
prepared
opium
and
other
drugs of
addiction.

Poisons.

preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp ;

5 (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp ;

10 (e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection ;

15 (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking ; or

(g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp ;
20 he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

25 (a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug ;

(b) he is otherwise authorised under the regulations to be in possession of the drug ; or

30 (c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

35 (3) A person shall not be guilty of an offence under subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

- 5 (4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters Forging,
10 or utters, knowing it to be forged or fraudulently altered, any etc.,
prescription of a medical practitioner or veterinary surgeon prescriptions.
including any drug of addiction shall be guilty of an offence against this Division.

(2) Any person who—

- 15 (a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtains from any medical practitioner or veterinary surgeon any prescription including any drug of addiction;

- 20 (ii) induces any pharmacist to dispense any forged or fraudulently altered prescription, including a drug of addiction, or any prescription obtained in contravention of this paragraph knowing it to be forged or
25 so altered or obtained; or

- (b) is in actual possession of any forged or fraudulently altered prescription including a drug of addiction or any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be
30 forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representation (whether verbal, or in writing, or by conduct) obtains or
attempts to obtain from any medical practitioner, pharmacist Obtaining
35 or veterinary surgeon any drug of addiction shall be guilty drug by
false
of an offence against this Division. representation.

24.

Poisons.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

Regulations.

- 5 (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- 10 (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority;
- 15 (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- 20 (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- 25 (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- 30 (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- 35 (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

(2)

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

(a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—

- 5 (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
- 10 (ii) carrying on at his shop the business of selling by retail, dispensing, or compounding that drug;

(b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;

15

(c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;

20

(d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;

25

(e) the withdrawal of any such license or authority by the Under Secretary; and

30

(f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license or authority.

35

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts. (b)

40

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences
5 (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under
10 the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug
15 or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

20 (a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and

(b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other
25 than persons or classes of persons so specified.

25. Any person—

- (a) who acts in contravention of or fails to comply with any regulation made under this Division; Further offences against this Division.
- 30 (b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or
- 35 (c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which
is

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

5 shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, 10 or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty.

(2) The court before which the offender was convicted of an offence against this Division may order any 15 forfeited 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 20 of any license issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be sentenced to imprisonment without the option of a fine or to 25 pay a fine exceeding one hundred dollars, if the court 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 30 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as 35 if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division 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.

(6) In any proceedings against a person for an offence against this Division 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.

DIVISION 2.—Restrictions on Prescribing Drugs of Addiction.

27. In this Division—

15 “Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely
20 to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

25 “Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

28. A medical practitioner shall not prescribe for or
30 supply to—

(a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his
35 knowledge, been prescribed or supplied by any other

Interpre-
tation.

Prohibi-
tion on
prescribing
drugs of
addiction
in certain
cases.

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- 5 (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

- 10 29. (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

(a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;

Director-General may authorise prescription or supply of drugs of addiction.

- 15 (b) be made in or to the effect of the prescribed form;

(c) contain such information as is provided for by the prescribed form; and

- (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

20

(2) Any such application—

(a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or

- 25 (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

- 30 (3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made
5 before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- 10 (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- 15 (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

20 **30.** (1) The Minister shall constitute a Medical Com- Medical
mittee for the purposes of this Division. Commit-
tee.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- 25 (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in
30 a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not
35 subsection two of this section the Minister may appoint any
medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

(4) The Medical Committee shall consider every
5 application referred to it under subsection two of section
twenty-nine of this Act and shall, as soon as practicable after
the application is referred to it, furnish to the Director-General
a report in writing containing a recommendation whether or
not an authority should be given to prescribe for or to supply
10 to the person to whom the application relates any drug of
addiction.

DIVISION 3.—Prohibited Drugs.

31. (1) The Governor may, by proclamation published
in the Gazette, declare that this Division shall apply to any
15 substance. Applica-
tion of
this
Division
to drugs
other than
diamorphine.
(2) The Governor may in like manner repeal, alter
or amend any proclamation issued in pursuance of subsection
one of this section.

32. (1) Any person who—
20 (a) manufactures, prepares, sells, distributes, supplies,
or otherwise deals in any prohibited drug;
(b) has in his possession any prohibited drug; or
(c) uses any prohibited drug,
shall be guilty of an offence against this Division. Prohibi-
tion of
manufacture,
etc., of
prohibited
drugs.

25 (2) Any prohibited drug in the possession of any
person may be seized by any member of the police force and
such prohibited drug shall be forfeited to Her Majesty.

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

30 33. (1) Every person guilty of an offence against this Penalties.
Division shall in respect of each offence be liable to a fine not
exceeding two thousand dollars or to imprisonment with or
without hard labour for a term not exceeding two years, or to
both such fine and imprisonment.

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.

GENERAL.

34. (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 substance specified in any Schedule of the Poisons List. Hawking, etc., of poisons.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice. Committee may require information as to substances.

(2)

Poisons.

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

5 (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.

36. (1) No person shall—

(a) whether on or about his premises or elsewhere—

10 (i) install any automatic machine for the sale or supply of any substance specified in any Schedule of the Poisons List; or

(ii) sell or supply any substance so specified by means of any automatic machine; or

15 (b) allow, permit or suffer any such automatic machine to be installed on his premises; or

(c) place or allow, permit or suffer to be placed any such substance in any automatic machine on his premises or under his control; or

20 (d) allow, permit or suffer any person to purchase or be supplied with or otherwise obtain any such substance by means of any automatic machine on the premises or under the control of such first-mentioned person.

25 (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
30 exceeding twenty dollars for each day on which any offence under this section is continued after conviction by any court.

37. (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or
35 supply of any substance specified in the order which in his
opinion Prohibition on sale, etc., of any poison, restricted substance or drug of addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made
5 under subsection one of this section shall be guilty of an offence against this Act.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the
10 basis that a preparation containing one per centum of any substance means a preparation in which—

Calcula-
tion of
percentages
in case of
liquid
prepara-
tions.

(a) one gramme of the substance, if a solid; or

(b) one millilitre of the substance, if a liquid,

15 is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

39. In any legal proceedings under this Act a certificate purporting to be signed by the Under Secretary and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without proof of
20 the signature of the person appearing to have signed the certificate or that he was the Under Secretary, be prima facie evidence of the fact stated in the certificate.

Certificate
of Under
Secretary
prima facie
evidence.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

Proof of
certificate
of an
analyst.

25 (2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without
30 proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by
35 subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely :—

Evidence in
prosecu-
tions
under this
Act.

- (a) that it is a poison or poisonous; or
 - (b) that it consists of or contains poison; or
 - (c) that it is a restricted substance; or
 - (d) that it is a drug of addiction,
- then in every such case—
- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
 - (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
 - (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

43.

Poisons.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the Under Secretary may—

Powers of entry and search.

- 10 (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- 15 (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- 20 (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

25 (2) Upon complaint on oath before a justice that the complainant suspects or believes that—

- 30 (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or any intended transaction or dealing which would, if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint
5 for the complainant so suspecting or believing, that justice may grant a search warrant authorising any member of the police force named in the warrant, at any time 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
10 search the premises and any persons found therein.

(3) Where a member of the police force searching any premises or person pursuant to a warrant granted under subsection two of this section has reasonable ground for suspecting that—

- 15 (a) an offence against this Act has been committed in relation to any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug which he finds in those premises or in the possession of any persons
20 found therein; or
- (b) any document which he so finds is a document referred to in paragraph (b) of subsection two of this section,

that member of the police force may seize and detain that
25 substance or drug, or that document, as the case may be.

(4) Any person who—

- (a) wilfully delays or obstructs any member of the police force or other person in the exercise of his powers under this section; or
- 30 (b) fails to produce or conceals any books, documents, stocks, substance or drug which he is required to produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any
35 provision of this Act or acts in contravention of or fails to comply with any provision of this Act or any regulation for which no other penalty is expressly provided shall be liable to a penalty not exceeding two hundred dollars.

45.

Poisons.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery
of
penalties.

46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall—

Publica-
tion, etc.,
of regula-
tions, 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 or proclamation or order; 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.

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

PART VI.

AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection : —

Amendment
of Act No.
40, 1900.
Sec. 52A.

(6) In this section "drug" has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts.

(Culpable
driving.)

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph :—

Amendment of Act No. 5, 1909.
Sec. 5.
(Driver to give his name and address when required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two.
No. 7, 1927 ..	Police Offences Amendment (Drugs) Act, 1927.	The whole.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	The whole, except section one and paragraph (b) of section three.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956 ..	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 31, 1966.

An Act relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith. [Assented to, 13th April, 1966.]

BE

Poisons.

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 :—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Poisons Act, 1966".

(2) Except as provided in subsection three of this section, 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.

(3) The provisions of this Act relating to the nomination and appointment of members of the Committee shall commence upon the day upon which Her Majesty's assent to this Act is signified.

(4) The members of the Committee first appointed under this Act shall assume office upon the day appointed and notified under subsection two of this section in respect of Division 1 of Part II of this Act.

Divisions
of Act.

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

PART I.—PRELIMINARY—ss. 1–5.

PART II.—POISONS ADVISORY COMMITTEE AND
POISONS LIST—ss. 6–8.

DIVISION 1.—*Poisons Advisory Committee*—ss. 6, 7.

DIVISION 2.—*Poisons List*—s. 8.

PART III.—POISONS AND RESTRICTED SUBSTANCES
—ss. 9–19.

DIVISION 1.—*Restrictions on Sale, Possession, etc.,
of Poisons and Restricted Substances*—ss. 9–18.

DIVISION 2.—*Exemptions*—s. 19.

PART

Poisons.

PART IV.—DRUGS OF ADDICTION AND PROHIBITED DRUGS—ss. 20–33.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction—ss. 20–26.*

DIVISION 2.—*Restrictions on Prescribing Drugs of Addiction—ss. 27–30.*

DIVISION 3.—*Prohibited Drugs—ss. 31–33.*

PART V.—GENERAL—ss. 34–46.

PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS AMENDED BY SUBSEQUENT ACTS—ss. 47, 48.

SCHEDULE.

3. (1) The enactments mentioned in the Schedule to **Repeal and savings.** this Act are, to the extent therein expressed, hereby repealed.

(2) Any license issued under section nine of the Poisons Act, 1952, as amended by subsequent Acts, and in force immediately before the commencement of section ten of this Act, shall be deemed to be a license issued under section ten of this Act.

(3) Notwithstanding subsection one of this section, a person required by section twelve, thirteen, fourteen or fifteen of the Poisons Act, 1952–1965, to preserve any book, letter, telegram, radiogram or order referred to in any of those sections for any period shall continue to preserve that book, letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter **Interpre-** otherwise indicates or requires— **tation.**

“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 Poisons Advisory Committee constituted under section six of this Act.

“Container”,

Poisons.

“Container”, when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.

“Dentist” means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.

“Drug of addiction” means any substance specified in Schedule Eight of the Poisons List.

“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 poison, restricted substance or drug of addiction; and “labelled” has a corresponding interpretation.

“License” means a valid and unexpired license or renewal of a license.

“Package”, when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.

“Pharmacist” means a practising pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts.

“Pharmacy trainee” means a pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts, not being a practising pharmacist within the meaning of that Act, as so amended, but who is employed in the business of a practising pharmacist within the meaning of that Act, as so amended.

“Poison” means any substance specified in Schedule One, Schedule Two, Schedule Three, Schedule Five, Schedule Six, or Schedule Seven of the Poisons List.

“Poisons List” means the list proclaimed under section eight of this Act as in force for the time being.

“Prescribed”

Poisons.

“Prescribed” means prescribed by this Act or by the regulations.

“Prohibited drug” means—

- (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

“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.

“Regulations” means regulations made under this Act.

“Restricted substance” means any substance specified in Schedule Four of the Poisons List.

“Sell” includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and “sale” and each of the other derivations of “sell” have corresponding interpretations.

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

“Therapeutic use” means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
- (b) influencing, inhibiting or modifying a physiological process,
of a man or animal.

“Under

Poisons.

“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

“Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

(a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any Schedule of the Poisons List; and

(b) includes sale or supply to other persons 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 any such substance for use, but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

(a) by reference to any one or more of the following : —

(i) the common or scientific name of the substance;

(ii) any class of substances;

(iii) the composition of the substance;

(iv) the purpose for which the substance may be used;

(v) the manner in which the substance is packed; or

(vi)

Poisons.

- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
 - (b) in any other manner so specified.
5. (1) The Minister may from time to time, by order published in the Gazette, exempt—
- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
 - (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,
- specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.
- (2) The provisions of subsection one of this section do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

Exemption
from opera-
tion of Act.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

DIVISION 1.—*Poisons Advisory Committee.*

6. (1) For the purposes of this Act there shall be a Poisons Advisory Committee which shall consist of fourteen members.
- (2) The members of the Committee shall be—
- (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;
 - (b)

Poisons
Advisory
Committee.

Poisons.

- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- (g) eight members appointed by the Governor (in this section referred to as "appointed members") of whom—
 - (i) one shall be a representative of the University of New South Wales;
 - (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
 - (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
 - (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
 - (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch);
 - (vii) one shall be a representative of the Country Traders' Association of New South Wales; and
 - (viii) one shall be a representative of the Pharmaceutical Society of New South Wales.

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

(4)

Poisons.

(4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.

If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

(5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

(7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

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

(9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.

Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

(10) An appointed member shall be deemed to have vacated his office if he—

- (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, as amended by subsequent Acts;
- (d)

Poisons.

- (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 Committee; or
- (e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

**Functions
of
Committee.**

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

- (a) recommendations for making, altering or repealing any regulation under this Act;
- (b) recommendations for amending the Poisons List.

(2)

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—*Poisons List.*

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section. **Poisons List.**

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

- (ii) with which excessive unsupervised self-medication is unlikely; and
- (iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him by the Committee.

(5)

Poisons.

(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommendation of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.*

9. (1) Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
- (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.

Sale of
certain
substances
prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

**Licenses
to sell
poisons.**

10. (1) The Under Secretary may issue a license to sell substances specified in Schedule One, Two or Three of the Poisons List to any person who—

- (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

(b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

Poisons.

11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required. Sale of certain poisons to be entered in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act. Sales by correspondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

- (a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

- (b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

Sales by
telegram
or radio-
gram.

13. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

(2) No person shall sell any such poison so ordered to any person who is unknown to the vendor.

Modifica-
tion of
section 11.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are fulfilled, apply where—

- (a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and
- (b) the purchase is made by him for the purpose of his profession.

(2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
- (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary surgeon;

(c)

Poisons.

- (c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;
- (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
- (e) preserve the order for a period of five years from the date on which the order is received by him.

(3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

15. No person shall sell any substance specified in Schedule One of the Poisons List—

- (a) to any person who is under eighteen years of age; or

Restrictions as to the sale of certain poisons.

(b)

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

(i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and

(ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

Offences
relating
to pre-
scribed
restricted
substances.

16. (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

(a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or

(b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

(3) A person shall not—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or

(ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

Poisons.

or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

- (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or
- (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

(4) Any prescribed restricted substance in the order or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

- (a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or
- (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

Regulations
under
Part III.

- (a) the issue, renewal and cancellation of licenses under this Part;
- (b) the colouring of any poisons and restricted substances;
- (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

(d)

Poisons.

- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

- (2) A regulation made under this Part may apply—
- (a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;
 - (b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.

18. Subject to this Act, any person who—

- (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or
- (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,

Penalty
for
offences
under
Part III.

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

DIVISION 2.—Exemptions.

19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.

Limitation
of applica-
tion of
certain
provisions
of Divi-
sion 1.

(2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

(3)

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

- (a) made up or compounded as a medicine by—
 - (i) a pharmacist acting in the lawful practice of his profession as such; or
 - (ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,
on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;
- (b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;
- (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal treatment;

but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

- (a) photographic materials for the purpose of photography;
- (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or
- (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale,
etc., of Drugs of Addiction.*

20. In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-
tation.

“Indian hemp” means the fresh or dried aerial parts of the plant known as *Cannabis Sativa* L., whether or not the resin has been extracted therefrom, and any resinous or other extract obtained from that plant, by whatever name those parts or extracts are called.

“Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

“Owner”, in relation to any premises, includes the person entitled to receive the rent of premises and the person to whom the rent of the premises is paid.

“Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

“Smoking” includes inhaling fumes produced by heating or burning any substance, and “smokes” has a corresponding interpretation.

21. (1) If any person—

- (a) manufactures, sells, or otherwise deals in prepared opium or Indian hemp;
- (b) has in his possession any prepared opium or Indian hemp;
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation

Offences
relating to
prepared
opium
and
other
drugs of
addiction.

Poisons.

preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp;

- (d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp;
- (e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection;
- (f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking; or
- (g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp;

he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

- (a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug;
- (b) he is otherwise authorised under the regulations to be in possession of the drug; or
- (c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

(3) A person shall not be guilty of an offence under subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he
proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

(4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters or utters, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner or veterinary surgeon including any drug of addiction shall be guilty of an offence against this Division. Forging,
etc.,
prescrip-
tions.

(2) Any person who—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtains from any medical practitioner or veterinary surgeon any prescription including any drug of addiction;

(ii) induces any pharmacist to dispense any forged or fraudulently altered prescription, including a drug of addiction, or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained; or

(b) is in actual possession of any forged or fraudulently altered prescription including a drug of addiction or any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representation (whether verbal, or in writing, or by conduct) obtains or attempts to obtain from any medical practitioner, pharmacist or veterinary surgeon any drug of addiction shall be guilty of an offence against this Division. Obtaining
drug by
false
representa-
tion.

24.

Poisons.

Regulations.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

- (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority;
- (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

- (a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—
 - (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
 - (ii) carrying on at his shop the business of selling by retail, dispensing, or compounding that drug;
- (b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;
- (c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;
- (d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;
- (e) the withdrawal of any such license or authority by the Under Secretary; and
- (f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license or authority.

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts. (b)

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

(a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and

(b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other than persons or classes of persons so specified.

25. Any person—

(a) who acts in contravention of or fails to comply with any regulation made under this Division;

(b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or

(c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which

is

Further
offences
against
this
Division.

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty. Penalties.

(2) The court before which the offender was convicted of an offence against this Division may order any forfeited 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 issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding one hundred dollars, if the court 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 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division 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.

(6) In any proceedings against a person for an offence against this Division 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.

DIVISION 2.—*Restrictions on Prescribing Drugs of Addiction.*

Interpre-
tation.

27. In this Division—

“Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

“Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

Prohibi-
tion on
prescribing
drugs of
addiction
in certain
cases.

28. A medical practitioner shall not prescribe for or supply to—

- (a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his knowledge, been prescribed or supplied by any other

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

29. (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

Director-General may authorise prescription or supply of drugs of addiction.

- (a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;
- (b) be made in or to the effect of the prescribed form;
- (c) contain such information as is provided for by the prescribed form; and
- (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

(2) Any such application—

- (a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or
- (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

(3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

Medical
Commit-
tee.

30. (1) The Minister shall constitute a Medical Committee for the purposes of this Division.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not nominated for the purpose of paragraph (a) or (b) of subsection two of this section the Minister may appoint any medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

(4) The Medical Committee shall consider every application referred to it under subsection two of section twenty-nine of this Act and shall, as soon as practicable after the application is referred to it, furnish to the Director-General a report in writing containing a recommendation whether or not an authority should be given to prescribe for or to supply to the person to whom the application relates any drug of addiction.

DIVISION 3.—*Prohibited Drugs.*

31. (1) The Governor may, by proclamation published in the Gazette, declare that this Division shall apply to any substance.

Applica-
tion of
this
Division
to drugs
other than
diamorphine.

(2) The Governor may in like manner repeal, alter or amend any proclamation issued in pursuance of subsection one of this section.

32. (1) Any person who—

- (a) manufactures, prepares, sells, distributes, supplies, or otherwise deals in any prohibited drug;
- (b) has in his possession any prohibited drug; or
- (c) uses any prohibited drug,

Prohibi-
tion of
manufacture,
etc., of
prohibited
drugs.

shall be guilty of an offence against this Division.

(2) Any prohibited drug in the possession of any person may be seized by any member of the police force and such prohibited drug shall be forfeited to Her Majesty.

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

33. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

Penalties.

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.**GENERAL.**

Hawking,
etc., of
poisons.

34. (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 substance specified in any Schedule of the Poisons List.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

Committee
may require
information
as to
substances.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice.

(2)

Poisons.

(2) A notice referred to in subsection one of this section may be served on any person whether or not the substance referred to in the notice is one 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.

36. (1) No person shall—

(a) whether on or about his premises or elsewhere—

Selling
poisons,
etc., by
automatic
machines
prohibited.

(i) install any automatic machine for the sale or supply of any substance specified in any Schedule of the Poisons List; or

(ii) sell or supply any substance so specified by means of any automatic machine; or

(b) allow, permit or suffer any such automatic machine to be installed on his premises; or

(c) place or allow, permit or suffer to be placed any such substance 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 such substance by means of any automatic machine on the premises or under the control of such first-mentioned 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 any offence under this section is continued after conviction by any court.

37. (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or supply of any substance specified in the order which in his

Prohibition
on sale,
etc., of any
poison,
restricted
substance or
drug of
addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made under subsection one of this section shall be guilty of an offence against this Act.

Calculation of percentages in case of liquid preparations.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which—

- (a) one gramme of the substance, if a solid; or
- (b) 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.

Certificate of Under Secretary prima facie evidence.

39. In any legal proceedings under this Act a certificate purporting to be signed by the Under Secretary and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without proof of the signature of the person appearing to have signed the certificate or that he was the Under Secretary, be prima facie evidence of the fact stated in the certificate.

Proof of certificate of an analyst.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

(2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely :—

Evidence in prosecutions under this Act.

- (a) that it is a poison or poisonous; or
- (b) that it consists of or contains poison; or
- (c) that it is a restricted substance; or
- (d) that it is a drug of addiction,

then in every such case—

- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
- (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
- (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

43.

Poisons.

Powers of
entry and
search.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the Under Secretary may—

- (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

(2) Upon complaint on oath before a justice that the complainant suspects or believes that—

- (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or any intended transaction or dealing which would, if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint for the complainant so suspecting or believing, that justice may grant a search warrant authorising any member of the police force named in the warrant, at any time 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.

(3) Where a member of the police force searching any premises or person pursuant to a warrant granted under subsection two of this section has reasonable ground for suspecting that—

- (a) an offence against this Act has been committed in relation to any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug which he finds in those premises or in the possession of any persons found therein; or
- (b) any document which he so finds is a document referred to in paragraph (b) of subsection two of this section,

that member of the police force may seize and detain that substance or drug, or that document, as the case may be.

(4) Any person who—

- (a) wilfully delays or obstructs any member of the police force or other person in the exercise of his powers under this section; or
- (b) fails to produce or conceals any books, documents, stocks, substance or drug which he is required to produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any provision of this Act or acts in contravention of or fails to comply with any provision of this Act or any regulation for which no other penalty is expressly provided shall be liable to a penalty not exceeding two hundred dollars. Penalty.

45.

Poisons.

Recovery
of
penalties.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Publica-
tion, etc.,
of regula-
tions, etc.

46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall—

- (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 or proclamation or order; 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.

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

PART VI.

AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.

Amendment
of Act No.
40, 1900.
Sec. 52A.
(Culpable
driving.)

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection :—

(6) In this section “drug” has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts.

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph :—

Amendment of Act No. 5, 1909.
Sec. 5.
(Driver to give his name and address when required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two.
No. 7, 1927 ..	Police Offences Amendment (Drugs) Act, 1927.	The whole.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	The whole, except section one and paragraph (b) of section three.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956 ..	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 March, 1966.*

New South Wales



ANNO QUINTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 31, 1966.

An Act relating to the regulation, control and prohibition of the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs; to establish a Poisons Advisory Committee and to define its powers, authorities, duties and functions; to repeal the Poisons Act, 1952, and certain other Acts; to amend the Police Offences (Amendment) Act, 1908, the Crimes Act, 1900, the Motor Traffic Act, 1909, and certain other Acts; and for purposes connected therewith. [Assented to, 13th April, 1966.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Poisons.

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 :—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Poisons Act, 1966".

(2) Except as provided in subsection three of this section, 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.

(3) The provisions of this Act relating to the nomination and appointment of members of the Committee shall commence upon the day upon which Her Majesty's assent to this Act is signified.

(4) The members of the Committee first appointed under this Act shall assume office upon the day appointed and notified under subsection two of this section in respect of Division 1 of Part II of this Act.

Divisions
of Act.

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

PART I.—PRELIMINARY—ss. 1–5.

PART II.—POISONS ADVISORY COMMITTEE AND
POISONS LIST—ss. 6–8.

DIVISION 1.—*Poisons Advisory Committee*—ss. 6, 7.

DIVISION 2.—*Poisons List*—s. 8.

PART III.—POISONS AND RESTRICTED SUBSTANCES
—ss. 9–19.

DIVISION 1.—*Restrictions on Sale, Possession, etc.,
of Poisons and Restricted Substances*—ss. 9–18.

DIVISION 2.—*Exemptions*—s. 19.

PART

Poisons.

PART IV.—DRUGS OF ADDICTION AND PROHIBITED DRUGS—ss. 20–33.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction*—ss. 20–26.

DIVISION 2.—*Restrictions on Prescribing Drugs of Addiction*—ss. 27–30.

DIVISION 3.—*Prohibited Drugs*—ss. 31–33.

PART V.—GENERAL—ss. 34–46.

PART VI.—AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS AMENDED BY SUBSEQUENT ACTS—ss. 47, 48.

SCHEDULE.

3. (1) The enactments mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed. ^{Repeal and savings.}

(2) Any license issued under section nine of the Poisons Act, 1952, as amended by subsequent Acts, and in force immediately before the commencement of section ten of this Act, shall be deemed to be a license issued under section ten of this Act.

(3) Notwithstanding subsection one of this section, a person required by section twelve, thirteen, fourteen or fifteen of the Poisons Act, 1952–1965, to preserve any book, letter, telegram, radiogram or order referred to in any of those sections for any period shall continue to preserve that book, letter, telegram, radiogram or order for that period.

4. (1) In this Act, unless the context or subject matter otherwise indicates or requires— ^{Interpretation.}

“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 Poisons Advisory Committee constituted under section six of this Act.

“Container”,

Poisons.

- "Container", when used in relation to any substance, material, body or thing referred to in this Act, means any vessel, bottle, tube, capsule, tin, box, case, wrapper, cover or other like receptacle or envelope which immediately contains such substance, material, body or thing.
- "Dentist" means a person registered, or deemed to be registered, as a dentist under the Dentists Act, 1934, as amended by subsequent Acts.
- "Drug of addiction" means any substance specified in Schedule Eight of the Poisons List.
- "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 poison, restricted substance or drug of addiction; and "labelled" has a corresponding interpretation.
- "License" means a valid and unexpired license or renewal of a license.
- "Package", when used in relation to any substance, material, body or thing referred to in this Act, includes every means by which such substance, material, body or thing may, for transport or for carriage or for storage or for sale, be cased, covered, enclosed, contained or packed.
- "Pharmacist" means a practising pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts.
- "Pharmacy trainee" means a pharmacist within the meaning of the Pharmacy Act, 1964, as amended by subsequent Acts, not being a practising pharmacist within the meaning of that Act, as so amended, but who is employed in the business of a practising pharmacist within the meaning of that Act, as so amended.
- "Poison" means any substance specified in Schedule One, Schedule Two, Schedule Three, Schedule Five, Schedule Six, or Schedule Seven of the Poisons List.
- "Poisons List" means the list proclaimed under section eight of this Act as in force for the time being.
- "Prescribed"

Poisons.

“Prescribed” means prescribed by this Act or by the regulations.

“Prohibited drug” means—

- (a) diamorphine, its salts, and any preparation, admixture, extract or other substance containing any proportion of diamorphine; and
- (b) any other substance to which Division 3 of Part IV of this Act applies.

“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.

“Regulations” means regulations made under this Act.

“Restricted substance” means any substance specified in Schedule Four of the Poisons List.

“Sell” includes sell whether by wholesale or retail and barter and exchange, and also includes dealing in, 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 such acts or things; and “sale” and each of the other derivations of “sell” have corresponding interpretations.

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

“Therapeutic use” means a use for the purpose of—

- (a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury; or
 - (b) influencing, inhibiting or modifying a physiological process,
- of a man or animal.

“Under

Poisons.

“Under Secretary” means the person for the time being holding office or acting as the Under Secretary of the Department of Public Health.

“Veterinary surgeon” means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

“Wholesale” means sale or supply for the purposes of resale.

“Wholesale dealing”—

(a) means sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or authorised by this Act or the regulations to be in possession of or to sell any substance specified in any Schedule of the Poisons List; and

(b) includes sale or supply to other persons 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 any such substance for use, but not for resale, in connection with that profession, business, trade or industry.

(2) For the purposes of the Poisons List or any proclamation made under section thirty-one of this Act, a substance may be described—

(a) by reference to any one or more of the following :—

(i) the common or scientific name of the substance;

(ii) any class of substances;

(iii) the composition of the substance;

(iv) the purpose for which the substance may be used;

(v) the manner in which the substance is packed; or

(vi)

Poisons.

- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such proclamation,
- (b) in any other manner so specified.

5. (1) The Minister may from time to time, by order published in the Gazette, exempt— Exemption
from operation
of Act.

- (a) any council within the meaning of the Local Government Act, 1919, as amended by subsequent Acts; or
- (b) any pastures protection board constituted or continued by or under the Pastures Protection Act, 1934, as amended by subsequent Acts,

specified in the order from all of the provisions of this Act or from such of those provisions as may be specified in the order, and thereupon the provisions of this Act or such of them as are so specified, as the case may be, shall not apply to or in respect of the council or pastures protection board specified in the order.

(2) The provisions of subsection one of this section do not extend to authorising the Minister to grant an exemption from any of the provisions of this Act to the extent that they relate to restricted substances or drugs of addiction.

PART II.

POISONS ADVISORY COMMITTEE AND POISONS LIST.

DIVISION 1.—*Poisons Advisory Committee.*

6. (1) For the purposes of this Act there shall be a Poisons Advisory Committee which shall consist of fourteen members. Poisons
Advisory
Committee.

(2) The members of the Committee shall be—

- (a) the person for the time being holding the office of Director-General of Public Health, or a person from time to time nominated by him;

(b)

Poisons.

- (b) the person for the time being holding the office of Government Analyst;
- (c) the person for the time being holding the office of Chief, Division of Animal Industry, Department of Agriculture;
- (d) the Head of the School of Pharmacology, University of Sydney, or a person from time to time nominated by him;
- (e) the Head of the School of Pharmacy, University of Sydney, or a person from time to time nominated by him;
- (f) a member of the Police Force nominated by the Commissioner of Police; and
- (g) eight members appointed by the Governor (in this section referred to as "appointed members") of whom—
 - (i) one shall be a representative of the University of New South Wales;
 - (ii) one shall be a medical practitioner representing the Australian Medical Association, New South Wales Branch;
 - (iii) one shall be a representative of the Sydney Chamber of Commerce Inc.;
 - (iv) one shall be a representative of the Chamber of Manufactures of New South Wales;
 - (v) one shall be appointed on the nomination of the Minister for Agriculture to represent agricultural and pastoral organisations;
 - (vi) one shall be a representative of the Federated Pharmaceutical Service Guild of Australia (New South Wales Branch);
 - (vii) one shall be a representative of the Country Traders' Association of New South Wales; and
 - (viii) one shall be a representative of the Pharmaceutical Society of New South Wales.

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

(4)

Poisons.

(4) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the person referred to in paragraph (b) of subsection two of this section shall, if he is present, preside.

If the Chairman and that person are both absent from any meeting, the members present shall appoint one of their number to preside at that meeting.

(5) The Chairman or member presiding at any meeting shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(6) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

(7) The number of members who shall constitute a quorum of the Committee shall be as prescribed.

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

(9) If any casual vacancy occurs in the office of an appointed member of the Committee 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.

Where the vacancy is a vacancy in the office of the member referred to in subparagraph (v) of paragraph (g) of subsection two of this section, the appointment shall be made on the recommendation of the Minister for Agriculture.

(10) An appointed member shall be deemed to have vacated his office if he—

- (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, as amended by subsequent Acts;
- (d)

Poisons.

(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 Committee; or

(e) is removed from office by the Governor.

(11) Every appointed member shall, if he is not a member of the Public Service, be paid such fees as may be prescribed.

(12) (a) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member.

(b) All acts and proceedings of the Committee shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as valid as if such member had been duly appointed and was qualified to act and had acted as a member of the Committee and as if the Committee had been properly and fully constituted.

(13) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Committee, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(14) The Governor may make regulations not inconsistent with this section prescribing all matters which by this section 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 section.

Functions
of
Committee.

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

(a) recommendations for making, altering or repealing any regulation under this Act;

(b) recommendations for amending the Poisons List.

(2)

Poisons.

(2) In addition to the duty imposed upon the Committee by section eight of this Act it shall be the duty of the 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—

- (a) any proposal, whether or not initiated by the Committee, for making, altering or repealing any regulations under this Act;
- (b) any proposal, whether or not initiated by the Committee, for amending the Poisons List.

DIVISION 2.—Poisons List.

8. (1) As soon as practicable after the commencement of this section the Committee shall prepare and submit to the Minister a list of substances which, in its opinion, should be classified in accordance with subsection two of this section. Poisons List.

(2) The list to be prepared and submitted to the Minister under subsection one of this section shall contain eight Schedules and the substances to be included in the list shall be classified as follows :—

Schedule One (Dangerous Poisons).

Substances which are of such extreme danger to life as to warrant their being sold only by medical practitioners, pharmacists, dentists, veterinary surgeons or persons licensed under section ten of this Act.

Schedule Two (Medicinal Poisons).

Substances which are dangerous to life if misused or carelessly handled, but which should be available to the public for therapeutic use or other purposes without undue restriction.

Schedule Three (Potent Substances).

Substances which are for therapeutic use and—

- (i) about which personal advice may be required by the purchaser in respect of their dosage, frequency of administration and general toxicity;
- (ii)

Poisons.

- (ii) with which excessive unsupervised self-medication is unlikely; and
- (iii) which may be required for use urgently so that their supply only on the prescription of a medical practitioner or veterinary surgeon would be likely to cause hardship.

Schedule Four (Restricted Substances).

Substances which in the public interest should be supplied only upon the written prescription of a medical practitioner, dentist or veterinary surgeon.

Schedule Five (Domestic Poisons).

Poisonous substances of a dangerous nature commonly used for domestic purposes which should be readily available to the public but which require caution in their handling, use and storage.

Schedule Six (Industrial and Agricultural Poisons).

Substances which should be readily available to the public for agricultural, pastoral, horticultural, veterinary, photographic or industrial purposes or for the destruction of pests.

Schedule Seven (Special Poisons).

Substances of exceptional danger which require special precautions in their manufacture or use.

Schedule Eight (Drugs of Addiction).

Substances which are addiction producing or potentially addiction producing.

(3) The Minister shall forthwith consider the list upon its submission to him and may confirm it with or without modifications as he may think proper.

(4) Before confirming the list with any modifications the Minister shall inform the Committee of the proposed modifications, give it a reasonable opportunity of making any observations with respect to the proposed modifications and take into consideration any such observations submitted to him by the Committee.

(5)

Poisons.

(5) The Governor may proclaim the list as confirmed by the Minister under subsection three of this section.

(6) (a) The Governor may, from time to time, in like manner amend the list proclaimed pursuant to subsection five of this section—

- (i) by adding to any Schedule or removing therefrom any substance;
- (ii) by transferring any substance from one Schedule to any other Schedule;
- (iii) by altering the entry relating to any substance in any Schedule.

(b) Any recommendation made by the Minister to the Governor for the amendment of the list so proclaimed shall be made after consultation with or on the recommendation of the Committee.

PART III.

POISONS AND RESTRICTED SUBSTANCES.

DIVISION 1.—*Restrictions on Sale, Possession, etc., of Poisons and Restricted Substances.*

9. (1) Subject to this Act and the regulations—

- (a) no person other than a medical practitioner, pharmacist, dentist, or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell any substance specified in Schedule One, Two or Three of the Poisons List, unless he is licensed under section ten of this Act to sell those substances;
- (b) no person other than a medical practitioner, dentist or veterinary surgeon, in the lawful practice of his profession as such, shall supply or sell to another person any restricted substance.

Sale of
certain
substances
prohibited.

(2)

Poisons.

(2) Subsection one of this section does not apply to the supply, by way of free distribution, of clinical samples of any substance specified in Schedule One, Two or Three of the Poisons List or restricted substance to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

Licenses
to sell
poisons.

10. (1) The Under Secretary may issue a license to sell substances specified in Schedule One, Two or Three of the Poisons List to any person who—

- (a) keeps open shop for the sale of goods by retail situated at least four miles by the nearest practicable road from any place in which the business of a pharmacist is carried on in open shop; and
- (b) produces a certificate from a justice of the peace and the member of the police force in charge of the police station nearest to his residence that he is a fit and proper person to be allowed to sell those substances.

(2) Any application for a license or for the renewal of a license under this section shall be in or to the effect of the form prescribed, shall contain the prescribed particulars and shall be accompanied by the prescribed fee.

(3) (a) Licenses under this section shall be in or to the effect of the form prescribed and shall be issued subject to conditions or unconditionally.

(b) A license under this section—

- (i) shall, unless sooner cancelled, remain in force until the thirty-first day of January next following the date of issue;
- (ii) may be renewed and on each renewal thereof shall, subject to this Act, remain in force for a further period of twelve months.

11.

Poisons.

11. (1) Every person who sells any substance specified in Schedule One of the Poisons List shall, before delivery thereof to the purchaser, inquire his name, place of abode, and occupation and the purpose for which such poison is required or stated to be required. Sale of certain poisons to be entered in a book.

(2) Such person shall thereupon make a faithful entry of such sale, specifying the substance and the quantity thereof, and all such particulars so given by the purchaser, together with the day of the month and year of the sale, in a book to be kept by the vendor for that purpose in the form prescribed.

(3) Every such entry shall be signed by the person making it, and shall, subject to sections twelve and thirteen of this Act, be also signed by the purchaser, unless he declares himself unable to write, in which case the person making the entry shall add thereto the words "Purchaser cannot write".

(4) The book referred to in subsection two of this section shall be preserved by the vendor for at least five years from the date on which the final entry in the book is made.

12. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by correspondence, the letter ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him and a memorandum of the date of the letter, by whom it was written, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act. Sales by correspondence.

(2) No person shall sell any such substance so ordered to any person with whose signature he is not acquainted unless—

(a) the signature has been witnessed, or purports to have been witnessed, by a justice of the peace or clergyman, or is authenticated by some person known to the vendor, and the place of abode of such justice of the peace, clergyman or person is shown in the letter containing the order; and

(b)

Poisons.

- (b) the entry relating to the sale and required to be made under this Act states the name and the place of abode of such justice of the peace, clergyman or person, as shown in that letter.

Sales by
telegram
or radio-
gram.

13. (1) Where sales and purchases of substances specified in Schedule One of the Poisons List are made by telegram or radiogram, the telegram or radiogram ordering them shall be preserved by the vendor for at least five years from the date of its receipt by him, and a memorandum of the date of the telegram or radiogram, by whom it was sent, and the quantity and particulars of the substance therein ordered shall be entered in the book referred to in subsection two of section eleven of this Act.

(2) No person shall sell any such poison so ordered to any person who is unknown to the vendor.

Modifica-
tion of
section 11.

14. (1) So much of the provisions of section eleven of this Act as requires an entry in the book to be kept under that section to be signed by the purchaser shall not, if the conditions referred to in subsection two of this section are fulfilled, apply where—

- (a) the purchaser is a medical practitioner, dentist, or veterinary surgeon; and
- (b) the purchase is made by him for the purpose of his profession.

(2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the substance to be purchased;
- (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner, dentist or veterinary surgeon;

(c)

Poisons.

- (c) must if the substance sold is being sent by post to the purchaser send it or cause it to be sent to the purchaser by registered post;
- (d) enter in the book in the column assigned to the signatures of purchasers the words "signed order" followed by the date on which the order is executed; and
- (e) preserve the order for a period of five years from the date on which the order is received by him.

(3) Notwithstanding any other provision of this Part, if a vendor is reasonably satisfied that a purchaser referred to in paragraph (a) of subsection one of this section desiring to purchase a substance specified in Schedule One of the Poisons List urgently requires it for the purpose of his profession but is, by reason of some emergency, unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book to be kept under section eleven of this Act the vendor may send the substance to the purchaser to be handed over to him either in exchange for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(4) Every purchaser by whom such an undertaking has been given who fails, neglects or refuses to deliver to the vendor a signed order in accordance with the undertaking and every person who for the purpose of obtaining delivery of any substance under subsection three of this section makes a statement which is to his knowledge false shall be guilty of an offence against this Act.

15. No person shall sell any substance specified in Schedule One of the Poisons List—

- (a) to any person who is under eighteen years of age; or

Restrictions as to the sale of certain poisons.

(b)

Poisons.

(b) otherwise than as referred to in section twelve, thirteen or fourteen of this Act, to any person who is unknown to the vendor unless—

(i) the sale is made in the presence of some witness who is known to the vendor and knows the purchaser; and

(ii) any entry relating to the sale and required to be made under this Act has been signed by the witness and the place of abode of the witness, as stated by him to the vendor, has been stated in the entry before the substance is delivered to the purchaser.

Offences
relating
to pre-
scribed
restricted
substances.

16. (1) A person shall not have in his possession or attempt to obtain possession of a prescribed restricted substance unless—

(a) he is a medical practitioner, pharmacist, dentist or veterinary surgeon; or

(b) he obtains possession or attempts to obtain possession of it on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon for its supply to him.

(2) A person shall not forge or fraudulently alter, or utter, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner, dentist or veterinary surgeon including any prescribed restricted substance.

(3) A person shall not—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtain from any medical practitioner, dentist or veterinary surgeon any prescription including any prescribed restricted substance; or

(ii) induce any pharmacist to dispense any forged or fraudulently altered prescription including a prescribed restricted substance

or

Poisons.

or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained;

- (b) be in actual possession of any forged or fraudulently altered prescription including a prescribed restricted substance or of any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or obtained; or

- (c) knowingly by any false representation (whether verbal, or in writing, or by conduct) obtain from any pharmacist, medical practitioner or veterinary surgeon any prescribed restricted substance.

(4) Any prescribed restricted substance in the order or disposition of a person shall, for the purposes of subsection one of this section, be deemed to be in his possession.

(5) A person shall not be guilty of an offence against subsection one of this section by virtue of his having in his possession, or attempting to obtain possession of, a prescribed restricted substance if he proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it—

- (a) to a medical practitioner, pharmacist, dentist or veterinary surgeon; or
- (b) to a person to whom its supply has been authorised by the prescription of a medical practitioner, dentist or veterinary surgeon.

17. (1) The Governor may make regulations under this Part for or with respect to—

Regulations under Part III.

- (a) the issue, renewal and cancellation of licenses under this Part;
- (b) the colouring of any poisons and restricted substances;
- (c) the conditions under which poisons and restricted substances shall be purchased, sold, distributed, supplied, disposed of, obtained, stored, kept or used;

(d)

Poisons.

- (d) the shape, size, colour and materials of, and method of sealing, the container or package in which any poison or restricted substance shall or shall not be sold;
- (e) requiring the container or package in which any prescribed poison or restricted substance is cased, covered, enclosed, contained or packed for sale to have printed thereon or on the label affixed or attached thereto such particulars as may be prescribed;
- (f) the conditions under which any proprietary preparation for use as a sheep or cattle dip, or for agricultural, pastoral, veterinary, piscicultural or horticultural purposes or as a vermicide shall be exempt from the operation of the provisions of this Part or any regulation made under this Part;
- (g) requiring persons engaged in the sale, purchase or distribution of any poison or restricted substance to keep records and furnish to any prescribed person information (whether in writing or otherwise);
- (h) the issue of prescriptions or orders for any poison or restricted substance, the dispensing of such prescriptions and the supply of poisons and any such substance on such a prescription or order;
- (i) prohibiting or regulating the distribution without consideration of any poison or restricted substance;
- (j) providing for the forfeiture of any poison or restricted substance unlawfully in the possession of any person and for the disposal of any such poison or substance so forfeited;
- (k) prescribing all matters which by this Part are required or permitted to be prescribed, or which are necessary or convenient for carrying out or giving effect to this Part.

Poisons.

(2) A regulation made under this Part may apply—

- (a) to all poisons and restricted substances, to any poison or restricted substance specified in the regulation or to all poisons and restricted substances other than those so specified;
- (b) to all persons, to persons or classes of persons specified in the regulation, or to all persons other than persons or classes of persons so specified.

18. Subject to this Act, any person who—

- (a) sells any substance specified in Schedule One, Two, Three or Four of the Poisons List contrary to the provisions of this Part or the regulations made under this Part; or
- (b) otherwise acts in contravention of or fails to comply with any of the provisions of this Part or the regulations made under this Part or fails to comply with any conditions subject to which a license under section ten of this Act was issued,

Penalty
for
offences
under
Part III.

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding eight hundred dollars, or to imprisonment for a term not exceeding six months, or in the case of a continuing offence to a penalty not exceeding twenty dollars for every day during which the offence continues.

DIVISION 2.—Exemptions.

19. (1) Paragraph (b) of subsection one of section nine of this Act does not apply to the supply or sale of any restricted substance which is supplied or sold by a pharmacist on and in accordance with the prescription of a medical practitioner, dentist or veterinary surgeon.

Limitation
of applica-
tion of
certain
provisions
of Divi-
sion 1.

(2) Subsection one of section sixteen of this Act does not apply to a wholesale dealer who has in his possession, or attempts to obtain possession of, a prescribed restricted substance referred to in that subsection for the purposes of a wholesale dealing.

(3)

Poisons.

(3) Sections eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the sale of any substance specified in Schedule One of the Poisons List—

- (a) made up or compounded as a medicine by—
 - (i) a pharmacist acting in the lawful practice of his profession as such; or
 - (ii) a pharmacy trainee under the direct personal supervision of a pharmacist so acting,
on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;
- (b) made up or compounded extemporaneously as a medicine by a pharmacist so acting for a specific and individual case, if the medicine does not contain any restricted substance;
- (c) made up or compounded as a medicine which is supplied by a medical practitioner so acting for the purposes of medical treatment, by a dentist so acting for the purposes of dental treatment, or by a veterinary surgeon so acting for the purposes of animal treatment;

but this subsection does not apply in respect of a medicine for external use containing a substance specified in Schedule One of the Poisons List unless the container thereof bears the word "Poison" printed conspicuously thereon together with the name and address of the vendor.

(4) Sections nine, eleven, twelve, thirteen, fourteen and fifteen of this Act do not apply to the supply or sale of—

- (a) photographic materials for the purpose of photography;
- (b) any material or liquid containing a substance specified in Schedule One, Two or Three (not being such a substance prescribed for the purposes of this subsection) for the destruction of noxious animals, birds, insects or plants; or
- (c) any substance specified in Schedule One, Two, Three or Four of the Poisons List by wholesale dealers in the ordinary course of wholesale dealing.

PART

Poisons.

PART IV.

DRUGS OF ADDICTION AND PROHIBITED DRUGS.

DIVISION 1.—*Restrictions on Possession, Manufacture, Sale, etc., of Drugs of Addiction.*

20. In this Division, unless the context or subject matter otherwise indicates or requires— Interpre-
tation.

“Indian hemp” means the fresh or dried aerial parts of the plant known as *Cannabis Sativa* L., whether or not the resin has been extracted therefrom, and any resinous or other extract obtained from that plant, by whatever name those parts or extracts are called.

“Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

“Owner”, in relation to any premises, includes the person entitled to receive the rent of premises and the person to whom the rent of the premises is paid.

“Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

“Smoking” includes inhaling fumes produced by heating or burning any substance, and “smokes” has a corresponding interpretation.

21. (1) If any person—

- (a) manufactures, sells, or otherwise deals in prepared opium or Indian hemp;
- (b) has in his possession any prepared opium or Indian hemp;
- (c) being the occupier of any premises permits those premises to be used for the purpose of the preparation

Offences
relating to
prepared
opium
and
other
drugs of
addiction.

Poisons.

preparation of opium or Indian hemp for smoking or the sale, distribution, or smoking of prepared opium or Indian hemp;

(d) being the owner or lessee of any premises knowingly permits such premises to be used for the purpose of smoking opium, prepared opium or Indian hemp;

(e) is concerned in the management of any premises used for any purpose referred to in paragraph (c) or (d) of this subsection;

(f) has in his possession any pipes or other utensils for use in connection with the smoking of opium, prepared opium or Indian hemp or any utensils used in connection with the preparation of opium or Indian hemp for smoking; or

(g) smokes opium, prepared opium or Indian hemp or otherwise uses prepared opium or Indian hemp, or frequents any place used for the purpose of smoking opium, prepared opium or Indian hemp;

he shall be guilty of an offence against this Division.

(2) If any person has in his possession any drug of addiction other than prepared opium or Indian hemp, he shall be guilty of an offence against this Division unless—

(a) he is licensed or otherwise authorised under the regulations to manufacture, sell, distribute or supply the drug;

(b) he is otherwise authorised under the regulations to be in possession of the drug; or

(c) the drug was supplied or requested to be supplied, for the use of that person, by a medical practitioner or veterinary surgeon, or on and in accordance with a prescription complying with the regulations.

(3) A person shall not be guilty of an offence under subsection two of this section by virtue of his having in his possession, or attempting to obtain possession of, a drug of addiction, other than prepared opium or Indian hemp, if he
proves

Poisons.

proves that he had possession, or attempted to obtain possession, of the substance only for the purpose of delivering it to a person referred to in paragraph (a), (b) or (c) of that subsection.

(4) Any opium, prepared opium or Indian hemp or other drug in the order or disposition of any person shall, for the purposes of subsections one and two of this section, be deemed to be in his possession.

22. (1) Any person who forges or fraudulently alters or utters, knowing it to be forged or fraudulently altered, any prescription of a medical practitioner or veterinary surgeon including any drug of addiction shall be guilty of an offence against this Division. Forging, etc., prescriptions.

(2) Any person who—

(a) knowingly by any false representation (whether verbal, or in writing, or by conduct)—

(i) obtains from any medical practitioner or veterinary surgeon any prescription including any drug of addiction;

(ii) induces any pharmacist to dispense any forged or fraudulently altered prescription, including a drug of addiction, or any prescription obtained in contravention of this paragraph knowing it to be forged or so altered or obtained; or

(b) is in actual possession of any forged or fraudulently altered prescription including a drug of addiction or any prescription obtained in contravention of paragraph (a) of this subsection, knowing it to be forged or so altered or so obtained,

shall be guilty of an offence against this Division.

23. Any person who knowingly by any false representation (whether verbal, or in writing, or by conduct) obtains or attempts to obtain from any medical practitioner, pharmacist or veterinary surgeon any drug of addiction shall be guilty of an offence against this Division. Obtaining drug by false representation.

24.

Poisons.

Regulations.

24. (1) For the purpose of preventing the improper use of drugs of addiction the Governor may make regulations under this Division for or with respect to—

- (a) prohibiting the manufacture of any drug of addiction except on premises licensed for the purpose and subject to the conditions specified in the license;
- (b) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the license or authority;
- (c) prohibiting the issue by persons other than medical practitioners or veterinary surgeons of prescriptions containing any such drug;
- (d) regulating the issue by medical practitioners or veterinary surgeons of prescriptions containing any such drug, the dispensing of such prescriptions, and the supply of any such drugs thereunder;
- (e) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise to such persons as may be prescribed, and making provision for the inspection of such books and records by prescribed persons;
- (f) fixing the fees to be paid in respect of any license, inspection, permit, or authority made or issued under the regulations;
- (g) providing for the forfeiture of any such drug unlawfully in the possession of any person;
- (h) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act;
- (i) generally, regulating and controlling the manufacture, sale, possession, distribution and supply of drugs of addiction; and
- (j) generally, carrying out or giving effect to the provisions of this Division.

(2)

Poisons.

(2) Regulations shall be made under this Division making provision for or with respect to—

- (a) authorising pharmacists to be in possession of any drug of addiction for the purposes of—
 - (i) manufacturing at his shop in the ordinary course of his retail business any preparation, admixture, or extract of that drug; and
 - (ii) carrying on at his shop the business of selling by retail, dispensing, or compounding that drug;
- (b) authorising medical practitioners, pharmacists employed in dispensing medicines at any public hospital or other institution, dentists and veterinary surgeons to be in possession of and to supply, in the lawful practice of their professions as such, any drug of addiction, subject to such conditions and restrictions as may be prescribed;
- (c) authorising persons in charge of laboratories for the purpose of research or instruction, and such other persons as to the Minister may seem proper to be in possession of any drug of addiction for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed;
- (d) the issue, grant and renewal of licenses or authorities for the purposes of this Division by the Under Secretary on such terms and subject to such conditions (including in the case of a license the payment of a fee) as he thinks proper;
- (e) the withdrawal of any such license or authority by the Under Secretary; and
- (f) appeals, in accordance with rules of court, to a District Court against any determination of the Under Secretary with respect to any such license or authority.

(3) (a) Regulations may be made under this Division making provision for or with respect to the continuance in force of any license or authority issued or granted under Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts. (b)

Poisons.

(b) Where any regulations are made under paragraph (a) of this subsection and any such license or authority is thereby continued in force, any proceedings with respect to any determination made under the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, and relating to any such license or authority that have been commenced but not completed before the commencement of such regulations may be continued and completed as if the license or authority had been issued or granted under the regulations made under this Division.

(4) (a) A general license to manufacture drugs of addiction shall not be issued.

(b) A license to manufacture drugs of addiction shall be limited to the manufacture of a particular drug or drugs specified in the license.

(c) Several licenses to manufacture drugs of addiction may be issued to the same person.

(5) Subject to this Division, a regulation made under this Division may apply—

- (a) to all drugs of addiction, to any such drug specified in the regulation, or to all such drugs other than those so specified; and
- (b) to all persons, to persons or classes of persons specified in the regulations, or to all persons other than persons or classes of persons so specified.

Further
offences
against
this
Division.

25. Any person—

- (a) who acts in contravention of or fails to comply with any regulation made under this Division;
- (b) who acts in contravention of or fails to comply with the conditions of any license issued or authority granted under or in pursuance of this Division; or
- (c) who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such license or authority as aforesaid, makes any declaration or statement which

is

Poisons.

is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or a document containing such a declaration or statement,

shall be guilty of an offence against this Division.

26. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment, and the court convicting any such person may order that any article in respect of which the offence was committed shall be forfeited to Her Majesty. Penalties.

(2) The court before which the offender was convicted of an offence against this Division may order any forfeited 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 issued or authority granted under the regulations made under this Division to supply a drug of addiction or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug of addiction, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding one hundred dollars, if the court 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 Division.

(4) Any person who attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as if he had committed an offence against this Division.

(5)

Poisons.

(5) 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 Division 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.

(6) In any proceedings against a person for an offence against this Division 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.

DIVISION 2.—Restrictions on Prescribing Drugs of Addiction.

Interpre-
tation.

27. In this Division—

“Addict” means any person who has acquired as a result of the repeated administration of a drug of addiction an overpowering desire for the continued administration of any such drug and in whom the cessation of the administration of any such drug is likely to lead to definite symptoms of mental or physical distress or disorder and who does not require the use of any such drug for the relief of symptoms of organic disease.

“Director-General” means the person for the time being holding the office of Director-General of Public Health or a medical officer of the Department of Public Health deputed by that person to act on his behalf for the purposes of this Division.

Prohibi-
tion on
prescribing
drugs of
addiction
in certain
cases.

28. A medical practitioner shall not prescribe for or supply to—

- (a) any person a drug of addiction for therapeutic use by that person continuously for a period exceeding two months or for a period which, together with any other period for which that drug has, to his knowledge, been prescribed or supplied by any other

Poisons.

other medical practitioner, would result in that drug being prescribed for therapeutic use by that person continuously for a period exceeding two months; or

- (b) any person who in his opinion is an addict any drug of addiction,

unless he so prescribes or supplies that drug in accordance with an authority in respect of that person given to him by the Director-General under section twenty-nine of this Act.

29. (1) An application for the authority of the Director-General referred to in section twenty-eight of this Act shall—

- (a) be in writing and be signed by the medical practitioner who proposes to prescribe or supply the drug of addiction;
- (b) be made in or to the effect of the prescribed form;
- (c) contain such information as is provided for by the prescribed form; and
- (d) be enclosed in a sealed envelope, marked "confidential", and be lodged with, or forwarded by registered mail to, the Director-General.

Director-General may authorise prescription or supply of drugs of addiction.

(2) Any such application—

- (a) where it relates to a person, who is referred to in the application as not being an addict, may be referred; or
- (b) where it relates to a person, who is referred to in the application as being an addict, shall be referred,

by the Director-General to the Medical Committee constituted under section thirty of this Act.

(3) The Director-General may give an authority for the medical practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates any drug of addiction specified in that authority for the purpose of the treatment of that person.

(4)

Poisons.

(4) Where the Director-General refers an application to the Medical Committee constituted under section thirty of this Act, he shall take into consideration any report of that Committee relating to that application made before the authority is granted.

(5) Any such authority—

- (a) shall specify the quantity of the drug of addiction that may be so prescribed or supplied by the medical practitioner;
- (b) shall specify the period for which any such drug may be so prescribed or supplied;
- (c) may be given subject to such conditions as the Director-General thinks fit and specifies in the authority; and
- (d) shall be in writing and be signed by the Director-General unless, in a case of emergency, it is given verbally.

(6) Any such authority given verbally shall be confirmed in writing as soon as practicable after it is given.

Medical
Commit-
tee.

30. (1) The Minister shall constitute a Medical Committee for the purposes of this Division.

(2) The Medical Committee shall consist of—

- (a) a medical practitioner nominated by the Australian Medical Association, New South Wales Branch;
- (b) a medical practitioner nominated by the Royal Australasian College of Physicians, New South Wales State Committee; and
- (c) a medical practitioner nominated by the Minister.

(3) If within the time specified by the Minister in a notice in writing served on the Australian Medical Association, New South Wales Branch, or the Royal Australasian College of Physicians, New South Wales State Committee, as the case may be, a medical practitioner is not nominated for the purpose of paragraph (a) or (b) of subsection two of this section the Minister may appoint any
medical

Poisons.

medical practitioner to be a member of the Medical Committee in the place of the member referred to in the said paragraph (a) or (b), as the case may be.

(4) The Medical Committee shall consider every application referred to it under subsection two of section twenty-nine of this Act and shall, as soon as practicable after the application is referred to it, furnish to the Director-General a report in writing containing a recommendation whether or not an authority should be given to prescribe for or to supply to the person to whom the application relates any drug of addiction.

DIVISION 3.—Prohibited Drugs.

31. (1) The Governor may, by proclamation published in the Gazette, declare that this Division shall apply to any substance.

(2) The Governor may in like manner repeal, alter or amend any proclamation issued in pursuance of subsection one of this section.

32. (1) Any person who—

- (a) manufactures, prepares, sells, distributes, supplies, or otherwise deals in any prohibited drug;
- (b) has in his possession any prohibited drug; or
- (c) uses any prohibited drug,

shall be guilty of an offence against this Division.

(2) Any prohibited drug in the possession of any person may be seized by any member of the police force and such prohibited drug shall be forfeited to Her Majesty.

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

33. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding two thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

(2)

Poisons.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

(3) 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 Division 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.

PART V.

GENERAL.

Hawking,
etc., of
poisons.

34. (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 substance specified in any Schedule of the Poisons List.

(2) Subsection one of this section does not apply to the free distribution of clinical samples of any substance specified in any Schedule (Schedule Eight excepted) of the Poisons List to medical practitioners, dentists or veterinary surgeons by persons engaged in the manufacture of, or wholesale dealing in, any such substance, where the distribution is made to the medical practitioner, dentist or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

Committee
may require
information
as to
substances.

35. (1) The Committee may, by notice in writing served on any person who manufactures in, or imports into, New South Wales, or sells any substance intended for therapeutic use, require that person to furnish to the Committee within such time, not being less than fourteen days, as may be specified in the notice, such information relating to the substance as may be referred to in the notice.

(2)

Poisons.

(2) A notice referred to in subsection one of this section may be served on any person whether or not the substance referred to in the notice is one 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.

36. (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 substance specified in any Schedule of the Poisons List; or
 - (ii) sell or supply any substance so specified by means of any automatic machine; or
- (b) allow, permit or suffer any such automatic machine to be installed on his premises; or
- (c) place or allow, permit or suffer to be placed any such substance 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 such substance by means of any automatic machine on the premises or under the control of such first-mentioned person.

Selling
poisons,
etc., by
automatic
machines
prohibited.

(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 any offence under this section is continued after conviction by any court.

37. (1) Notwithstanding any other provision of this Act, the person for the time being holding office as Director-General of Public Health may, by order, prohibit the sale or supply of any substance specified in the order which in his opinion

Prohibition
on sale,
etc., of any
poison,
restricted
substance or
drug of
addiction.

Poisons.

opinion should not be sold or supplied pending the evaluation of its toxic or deleterious properties or of any substance containing any such substance.

(2) Any person who contravenes an order made under subsection one of this section shall be guilty of an offence against this Act.

Calculation of percentages in case of liquid preparations.

38. For the purpose of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations) be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which—

(a) one gramme of the substance, if a solid; or

(b) 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.

Certificate of Under Secretary prima facie evidence.

39. In any legal proceedings under this Act a certificate purporting to be signed by the Under Secretary and to certify that any person is or is not a person who holds a license, permit or authority under this Act shall, without proof of the signature of the person appearing to have signed the certificate or that he was the Under Secretary, be prima facie evidence of the fact stated in the certificate.

Proof of certificate of an analyst.

40. (1) Any analyst analysing any substance submitted to him may give a certificate of the result of the analysis.

(2) In any legal proceedings under this Act the production of a certificate, purporting to be signed by an analyst, shall be prima facie evidence of the identity of the substance analysed, and of the result of the analysis, without proof of the signature, employment or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "analyst" means any person employed by the Government of New South Wales as an analyst or any person appointed by the Governor as an analyst under the Pure Food Act, 1908, as amended by subsequent Acts.

Poisons.

41. In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulation, whenever it is necessary or proper to prove in respect of any particular article or substance that it conforms to any of the following descriptions, namely :—

Evidence in
prosecu-
tions
under this
Act.

- (a) that it is a poison or poisonous; or
- (b) that it consists of or contains poison; or
- (c) that it is a restricted substance; or
- (d) that it is a drug of addiction,

then in every such case—

- (i) evidence that any substance commonly sold under the same name or description as the said particular article or substance conforms to any of the descriptions contained in paragraph (a), (b), (c) or (d) of this section shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly;
- (ii) evidence that any particular article or substance bears any inscription required by the regulations in respect of any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to the class of substances, in respect of which that inscription is so required;
- (iii) evidence that the container in which any particular article or substance is contained is labelled as required, or bears any inscription required, by the regulations in respect of containers containing any substance or class of substances shall be prima facie evidence that that particular article or substance is a substance, or belongs to a class of substances, the containers of which are so required to be labelled or to bear that inscription.

42. 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.

43.

Poisons.

Powers of
entry and
search.

43. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being complied with, any member of the police force or person authorised to do so (either generally or in a particular case) by the Under Secretary may—

- (a) enter into and upon the premises of any person who sells or has in his possession any substance specified in any Schedule of the Poisons List or prohibited drug or who carries on the business of a producer, manufacturer or distributor of any such substance or drug;
- (b) search any such premises;
- (c) require the production of and inspect any stocks of any such substance or drug in or about those premises;
- (d) require the production of and inspect and make copies of, or take extracts from, any books or documents relating to any dealing in any such substance or drug;
- (e) seize and detain any such substance or drug found on those premises with respect to which he has reasonable grounds to believe that there has been a contravention of this Act.

(2) Upon complaint on oath before a justice that the complainant suspects or believes that—

- (a) any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug is, in contravention of this Act, in the possession or under the control of any person in any premises; or
- (b) any document is in the possession or under the control of any person in any premises and that document directly or indirectly relates to or is connected with any transaction or dealing relating to any such prescribed substance, any drug of addiction

Poisons.

addiction or any prohibited drug which was, or any intended transaction or dealing which would, if carried out, be, an offence against this Act,

and upon reasonable ground being shown in such complaint for the complainant so suspecting or believing, that justice may grant a search warrant authorising any member of the police force named in the warrant, at any time 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.

(3) Where a member of the police force searching any premises or person pursuant to a warrant granted under subsection two of this section has reasonable ground for suspecting that—

- (a) an offence against this Act has been committed in relation to any prescribed restricted substance referred to in section sixteen of this Act, any drug of addiction or any prohibited drug which he finds in those premises or in the possession of any persons found therein; or
- (b) any document which he so finds is a document referred to in paragraph (b) of subsection two of this section,

that member of the police force may seize and detain that substance or drug, or that document, as the case may be.

(4) Any person who—

- (a) wilfully delays or obstructs any member of the police force or other person in the exercise of his powers under this section; or
- (b) fails to produce or conceals any books, documents, stocks, substance or drug which he is required to produce under this section,

shall be guilty of an offence against this Act.

44. Every person who is guilty of an offence against any provision of this Act or acts in contravention of or fails to comply with any provision of this Act or any regulation for which no other penalty is expressly provided shall be liable to a penalty not exceeding two hundred dollars.

45.

Poisons.

Recovery
of
penalties.

45. Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Publica-
tion, etc.,
of regula-
tions, etc.

46. (1) All regulations made under this Act and any proclamation made under section eight or thirty-one of this Act and any order made under section thirty-seven of this Act shall—

- (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 or proclamation or order; 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.

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

PART VI.

**AMENDMENTS TO CRIMES ACT, 1900, AS AMENDED BY
SUBSEQUENT ACTS, AND MOTOR TRAFFIC ACT, 1909, AS
AMENDED BY SUBSEQUENT ACTS.**

Amendment
of Act No.
40, 1900.
Sec. 52A.
(Culpable
driving.)

47. The Crimes Act, 1900, as amended by subsequent Acts, is amended by omitting subsection six of section 52A and by inserting in lieu thereof the following subsection :—

- (6) In this section “drug” has the meaning ascribed to that expression by subsection two of section five of the Motor Traffic Act, 1909, as amended by subsequent Acts.

48.

Poisons.

48. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by omitting from subsection two of section five the words "In this subsection, 'drug' means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies" and by inserting in lieu thereof the following paragraph : —

Amendment of Act No. 5, 1909.
Sec. 5.
(Driver to give his name and address when required.)

In this subsection, "drug" means—

- (a) a drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, not being a substance specified in the regulations as being excepted from this definition; and
- (b) any other substance prescribed as being a drug for the purposes of this definition.

SCHEDULE.

Sec. 3.

Reference to Act.	Short Title.	Extent of Repeal.
No. 12, 1908	Police Offences (Amendment) Act, 1908.	The matter in section one relating to Parts VI and VIA. Parts VI and VIA. Schedule Two.
No. 7, 1927 ..	Police Offences Amendment (Drugs) Act, 1927.	The whole.
No. 16, 1934	Police Offences Amendment (Drugs) Act, 1934.	The whole, except section one and paragraph (b) of section three.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends the Police Offences (Amendment) Act, 1908, except section two.
No. 54, 1952	Poisons Act, 1952	The whole.
No. 37, 1954	Police Offences Amendment (Drugs) Act, 1954.	The whole.
No. 8, 1956 ..	Poisons (Amendment) Act, 1956.	The whole.
No. 12, 1961	Public Health (Amendment) Act, 1961.	Section five.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 13th April, 1966.

