



Tuvalu

PHARMACY AND POISONS ORDINANCE

**7 of 1948, 4 of 1950 (Cap. 34 of 1952), G.N.167/56, 10 of
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8 of 1971 (Cap. 33 of 1973), 14 of 1974, L.N. 16/74, L.N. 33/76

AN ORDINANCE TO CONTROL THE PRACTICE OF PHARMACY AND THE SALE AND DISTRIBUTION OF DRUGS AND POISONS

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [2nd August 1949]

PART I - PRELIMINARY

1 Short title

This Ordinance may be cited as the Pharmacy and Poisons Ordinance.

2 Interpretation

In this Ordinance unless the context otherwise requires —

“**court**” means the Senior Magistrate’s Court;

“**poison**” includes the several substances mentioned in the Poisons List in Schedule 3;

“**qualified medical practitioner**”, “**qualified dentist**”, “**medical practitioner**” and “**dentist**” means a person whose name appears in the

Medical and Dental Register kept in pursuance of the Medical and Dental Practitioners Ordinance;

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“**register**” means the register of pharmacists registered under this Ordinance;

“**registered pharmacist**” means a person registered under this Ordinance.

PART II - ADMINISTRATION

3 Minister may appoint inspectors

The Minister may appoint inspectors for the purposes of enforcing the provisions of this Ordinance or any rules made hereunder.

4 Powers of inspectors

For the purposes of enforcing the provisions of this Ordinance or regulations made hereunder, any inspector so appointed shall have the power at all reasonable times to enter upon the premises of any registered pharmacist or licensed seller of poisons or medicines and to inspect any books, papers, records or writings, drugs or medicines, whether patent or otherwise, or any article stored or offered for sale or used in the business; and shall have the power at all reasonable times to enter any premises in which he has reasonable cause to suspect that a breach of the law has been or is being committed, and to make such examination and inquiry and to do such other things (including the taking, on payment therefore, of samples) as may be necessary for the purpose of ascertaining whether the provisions aforesaid are being complied with.

PART III - PHARMACISTS

5 Register of Pharmacists

The Minister shall keep a register to be called the” Register of Pharmacists”.

6 Pharmacists, how registered

A person shall be registered by the entry in the register of his name and such other particulars relating to him as are prescribed.

7 Persons eligible for registration

Any person who is of good fame and character and who has passed the final examination of the Pharmaceutical Society of Great Britain or Northern Ireland, or of any Pharmacy Board, Society or College of any Dominion or State mentioned in Schedule 1, may be registered under the provisions of this Ordinance.

Schedule 1

8 Registration of applicants

When any person has applied to be registered and has proved to the satisfaction of the Minister —

- (a) that he has attained the age of 21 years;
- (b) that he is entitled to be registered by virtue of compliance with the requirements mentioned in section 7; and
- (c) that the certificate or diploma testifying to his qualification was, after examination, duly obtained by him from such a Society, Board or College as is specified in section 7; and that in the period in which he has held the certificate or diploma, his name has not been removed from the register of any country, Dominion or State for any cause which would on its happening disqualify him from being registered under this Ordinance;

the Minister shall cause the person to be registered, by entering in the register his name and such other particulars as may be prescribed, and issue to him, upon payment of the prescribed fee, a certificate in the prescribed form.

9 Appeal against refusal of Minister to register

- (1) If the Minister refuses to register any person under this Ordinance, the Minister shall, if required by such person, state in writing the reasons for such refusal.
- (2) Such person may thereupon appeal to the court.

- (3) An appeal under this section shall be by way of special case on any question of fact or law, and the Minister shall, if the court so orders, register the said person.

10 Fraudulent representation

Any person who procures himself to be registered under this Ordinance by means of any false or fraudulent representations or by the production of any false certificate or diploma shall be liable to a fine of \$200 or to imprisonment for 6 months.

11 Amendments may be made in register

Any registered pharmacist who obtains or already possesses any higher degree, or any qualification other than the one qualification in respect of which he is registered, may have such higher degree or additional qualification inserted in the register without payment of any additional fee.

12 Notification of change of address

Any registered pharmacist who changes his professional address shall forthwith give notice of the fact in writing to the Minister.

13 Correction of register

- (1) The Minister shall remove from the register the name of any registered pharmacist who has died, and may make such alterations and amendments in the register as he thinks fit.
- (2) The Minister may, by notice in writing to any registered pharmacist addressed to him by registered post according to his address in the register, enquire whether he has changed his address or residence, and if an answer is not returned to such notice within 6 months after the date of the posting thereof, the Minister may remove the name of such person from the register.
- (3) The name of any registered pharmacist removed from the register under this part of the Ordinance may be restored by the Minister.

PART IV - CONDUCT OF BUSINESS AS PHARMACIST

14 Grounds of removal of name from register

- (1) The Minister shall remove from the register the name of any person —
 - (a) whose registration has been obtained by fraud or misrepresentation;
 - (b) who has ceased to possess, or does not possess, the qualifications in respect of which he was registered;
 - (c) who has been convicted in any part of Her Majesty's dominions, or elsewhere, of an indictable offence, or of any other offence which in the opinion of the Minister renders him unfit to practise;
 - (d) who has been certified to be of unsound mind; or (e) who is deemed by the Minister guilty of —
 - (i) habitual drunkenness or habitual addiction to any drug;
 - (ii) such improper conduct as in the opinion of the Minister renders him unfit to be allowed to continue to practise as a pharmacist.
- (2) If the Minister removes the name of any person from the register, he shall, if so required by him, state in writing the reason for the removal.
- (3) Any person whose name has been removed from the register in pursuance of this section may appeal, by way of special case as aforesaid, to the court to have his name restored to the register, and the Minister shall, if the court so orders, restore his name to the register.

15 Inquiry by the Minister

- (1) Before removing from the register the name of any person, the Minister shall make due inquiry, and such person may be represented by counsel, attorney or agent, who may examine witnesses and address the Minister on his behalf.
- (2) Pending the hearing of a charge against any person, the Minister may suspend the registration of that person, who shall thereupon cease to practise.

16 Surrender of certificate of registration

Any person whose name is removed from the register under section 14 shall, within 14 days after the posting of a notice demanding the return of his

certificate of registration, surrender his certificate to the Minister for cancellation; and any person who fails so to do shall be liable to a fine of \$10 for every day after the period of 14 days during which the certificate is not returned.

17 Persons other than registered pharmacists not to carry on business

- (1) Any person other than a registered pharmacist who carries on, or attempts to carry on, in any place or on any occasion, the business of a pharmacist, or pretends to be a pharmacist, or assumes or uses the title of pharmaceutical chemist, pharmacist, druggist, homoeopathic chemist, dispensing chemist, or of member of any Pharmaceutical Society or Board, or takes or uses, in connection with the sale of goods, the title of chemist, shall be liable to a fine of \$1000.
- (2) No person shall use, in connection with any business, any title, emblem or description reasonably calculated to suggest that he, or anyone employed in the business, possesses any qualification with respect to the selling, dispensing or compounding of drugs or poisons, other than the qualification which he in fact possesses.

For the purpose of this subsection the use of the description “pharmacy”, in connection with a business carried on any premises, shall be deemed to be reasonably calculated to suggest that the owner of the business and the person having the control of the business on these premises are registered pharmacists.

- (3) If any person acts in contravention of the foregoing provisions of this section, he shall be liable, in respect of each offence, to a fine of \$1000; and in the case of a continuing offence, to a further fine of \$50 for every day, subsequent to the day on which he is convicted of the offence, during which the offence continues.

18 Name of pharmacist to be exhibited

Every pharmacist and every person or assistant under whose conduct or management the business of a pharmacist is carried on, shall have his name legibly painted or written and continually so maintained on a conspicuous place on the front of the building where the business is carried on.

19 Only pharmacist to dispense

Save as hereinafter provided, no person other than a registered pharmacist or a bona fide assistant to a registered pharmacist, under the immediate and personal

supervision and control of a registered pharmacist, shall dispense or compound, for fee or reward, any drug or medicine:

Provided always that this section shall not apply to the employment of assistant medical officers in government hospitals or dispensaries.

20 Temporary licence

- (1) The Minister may, upon the application of any registered pharmacist, issue a temporary permit to a pharmacist who possesses the qualifications mentioned in section 7, to act as locus tenens for such registered pharmacist for a period of 3 calendar months from the date of issue of the permit.
- (2) The Minister may renew any such period for a further period of 3 months, but not for any longer period.
- (3) The Minister shall prescribe fees for such permit.

21 Prescriptions to be signed

- (1) A medical practitioner shall not issue a prescription unless the prescription is signed by him with his usual signature, or is written on paper on which is printed his surname and the initials of his Christian names, and bears the date on which the prescription was issued.
- (2) A prescription issued by a qualified veterinary surgeon shall, in addition to fulfilling the conditions laid down in subsection (1), bear the words “for veterinary purposes only”.
- (3) A prescription issued by a qualified dentist shall, in addition to fulfilling the conditions laid down in subsection (1), bear the words “for dental purposes only”.
- (4) A prescription which does not comply with the provisions of this section shall not be accepted by any pharmacist as authority for the sale or supply of any medicine or drug.

22 Record of prescriptions

- (1) Every pharmacist shall, as prescribed, record in a book (hereinafter called “the prescription book”) to be kept by him for that purpose, every prescription of any medical practitioner dispensed, compounded, made up or supplied by him.

- (2) Every prescription, whether issued by a qualified medical practitioner, qualified veterinary surgeon or qualified dentist, containing any of the drugs to which any Ordinance as to the sale of dangerous drugs, for the time being in force, relates, shall be retained in the custody of the pharmacist dispensing the same for a period of 2 years and filed in the pharmacy.
- (3) The prescription book shall be open for inspection by any inspector appointed under section 3.

23 Conduct of business by pharmacist

A pharmacist shall not —

- (a) keep or maintain any shop for selling or supplying medicines or drugs or for dispensing or compounding prescriptions, unless such shop is, while open for business, constantly under his own control or that of some other registered pharmacist as an assistant or agent of a registered pharmacist;
- (b) permit any person, other than a bona fide assistant or apprentice in the course of his employment and under the actual personal supervision of a registered pharmacist, to sell, supply, compound or dispense medicines or drugs;
- (c) permit any person, other than a registered pharmacist, to dispense or compound any prescription or supply any medicine or drugs containing any of the dangerous drugs to which section 22 (2) relates;
- (d) carry on business as such unless the business is under the actual personal supervision of himself or some other registered pharmacist;
- (e) practise pharmacy except under his own name;
- (f) adopt the title “Consulting Chemist”;
- (g) give medical or surgical advice or aid, except in his place of business and —
 - (i) in the case of simple ailments of common occurrence;
 - (ii) in the administration of antidotes in the case of acute poisoning;
 - (iii) in the application of immediate aid in cases of accident or injury; or
 - (iv) in urgent cases under the direct instructions of a qualified medical practitioner;

- (h) allow his name to be used in connection with the practice of pharmacy at any premises at which there is not a registered pharmacist in continued attendance; or
- (i) aid or assist any person other than a registered pharmacist to practise pharmacy, except in accordance with the provisions of this Ordinance.

24 Medical practitioners, veterinary surgeons and dentists may dispense

Every qualified medical practitioner, qualified veterinary surgeon or qualified dentist may dispense or compound any medicine or drugs for patients or animals without becoming a registered pharmacist, provided that a true and faithful record is made of every such prescription in the prescription book, which shall be open for inspection by any inspector or person duly authorised by the Minister for that purpose.

25 Automatic machines for vending medicines prohibited

- (1) Any person who —
 - (a) installs any automatic machine for the sale or supply of any drug or medicine, or allows, permits or suffers any such automatic machine to be so installed;
 - (b) sells or supplies any drug or medicine by means of any such automatic machine;
 - (c) allows, permits or suffers any person to purchase or be supplied with, or otherwise obtain, any drug or medicine by means of any automatic machine;

shall be liable to a fine of \$40; and in the case of a continuing offence, to a further fine of \$10 for every day, subsequent to the day on which he is convicted of the offence, during which the offence continues.

- (2) For the purpose of the last preceding subsection, “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 of his employee or other agent at the time of the sale or supply.

26 Restrictions on supply of certain medicines

- (1) Any person other than a qualified medical practitioner or a person acting under the direct instructions of such medical practitioner, who attends upon, prescribes for, or supplies any article as a drug, medicine, instrument or appliance to, any person for the alleviation, cure or treatment of any venereal disease, whether in fact such person is suffering from such disease or not, or of any disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising or relating to sexual intercourse, or of female or menstrual irregularities, or for the purpose of terminating pregnancy, or of influencing the course of pregnancy, shall be liable to a fine of \$200.
- (2) Nothing in this section shall apply to —
 - (a) a registered pharmacist who dispenses to the patient of a qualified medical practitioner the prescription of such medical practitioner, if the prescription is dated and bears the address and the usual signature (including the surname) of the practitioner; or
 - (b) a registered pharmacist who, in the ordinary course of his business, sells or supplies any article as a drug, medicine, instrument or appliance (except such drugs, medicines, instruments or appliances as are prescribed), provided such drug, medicine, instrument or appliance is sold or supplied by such pharmacist for purposes other than those prescribed by this section.

27 Certain advertisements prohibited

- (1) A person shall not publish any statement, whether by advertisement or otherwise, to promote the sale of any article as a medicine, instrument or appliance for the alleviation or cure of any venereal disease, or disease affecting the generative organs, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse, or of female or menstrual irregularities, or for terminating pregnancy, or for influencing the course of pregnancy or for preventing conception.
- (2) Any person who —
 - (a) affixes or inscribes any statement or anything whatsoever so as to be visible to persons being in, or passing along, any street, road, highway, pathway, public place or public conveyance;
 - (b) delivers or offers or exhibits any statement to any person being in, or passing along, any street, road, highway, pathway, public place or public conveyance;

- (c) throws any statement into or upon any street, road, highway, pathway, public place or public conveyance, or into the area, yard, garden or enclosure of any house;
 - (d) exhibits any statement to public view in any house, shop or place;
 - (e) prints or publishes any statement in any newspaper; or (f) sells, offers or shows, or sends by post, any statement to any person;
- shall be deemed to have published that statement.
- (3) The word “statement” includes any document, book, or paper containing any statement.
 - (4) Any person who for himself or as assistant, servant, agent or manager does or permits any act, matter or thing contrary to this section or any part thereof, shall be liable to a fine of \$200.
 - (5) Nothing in this section shall apply to any books, documents or papers published in good faith for the advancement of medical or surgical science, or to any advertisement, notice or recommendation published by the authority of the Minister, or to any publication sent only to qualified medical practitioners or registered pharmacists for the purpose of their business.

28 British Pharmacopoeia

The British Pharmacopoeia as published in England under the direction of the General Council of Medical Education and Registration of the United Kingdom, in the edition for the time being in force, shall be the Pharmacopoeia in force in Tuvalu as the standard of quality or composition for all drugs or medicines, and for the method of preparation of all drugs or medicines, and of compounding of all mixtures thereof; and for the purposes of this Ordinance, the metre and the gramme shall be accepted respectively as legal units of measure and weight.

PART V - SALE AND SUPPLY OF MEDICINES

29 Sale of drugs or medicines

- (1) No person who is not a registered pharmacist, or the assistant manager or bona fide apprentice of a registered pharmacist, shall sell by retail any drug or medicines whatsoever except as prescribed by this Ordinance.

- (2) Nothing in this Ordinance contained shall be construed to prohibit any licensed storekeeper from selling any of the articles mentioned in Schedule 2.

Schedule 2

- (3) The Minister may by order add articles to or delete articles from Schedule 2.

30 Medicine Licence

- (1) The Minister may, on the application of any licensed storekeeper, grant such person a licence, called a Medicine Licence, to sell such articles as the Minister deems fit:

Provided that no such licence shall be granted to any licensed storekeeper carrying on business within 5 miles of a registered pharmacist; and provided further that no such licence shall be granted to sell any of the drugs or medicines to which the provisions of section 22 (2) apply.

- (2) Such licence shall be granted for a period not exceeding 12 months and may be renewed.
- (3) The Minister shall prescribe fees for such licence.
- (4) The licence shall be in the form prescribed by regulations hereunder and shall state clearly the names of all articles which the licensee is permitted to sell.
- (5) Every application for a licence under this section shall be accompanied by a report by the administrative officer in charge of the district in which the business is carried on.

31 Police to be notified of issue of licence

Immediately on the granting of such a licence the Minister shall so inform the Chief of Police.

32 Only drugs mentioned in licence may be sold

The holder of such a licence may sell or supply or cause or suffer to be sold or supplied by his assistant or manager, only such drugs or medicines as, by virtue of such licence, he is entitled to sell or supply; and any person acting in contravention of this section shall be liable to have his licence cancelled, and also to a fine of \$40; and in the case of a continuing offence to a further fine of

\$10 for every day, subsequent to the day on which he is found guilty of such offence, during which the offence continues.

33 Sale by wholesale of medicines or drugs

No person shall sell any drug or medicine by wholesale to any person who does not possess a licence for the sale by retail of such drug or medicine.

34 Importation of drugs or medicines

- (1) No person shall import for sale by retail any drug or medicine which under his licence he is not entitled to sell or supply.
- (2) Any drug or medicine imported in contravention of this section shall be liable to confiscation and shall be disposed of in such manner as the Minister may direct.
- (3) Any person importing or attempting to import any drug or medicine in contravention of this section shall be liable to a fine of \$20, and for a subsequent offence to a fine of \$200 or imprisonment for 6 months.
- (4) The provisions of the Customs Ordinance shall apply to proceedings under this section.

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35 Labels on medicines imported

- (1) All medicines imported shall state on the label affixed to the container the percentage of proof spirit, if any, which the medicine contains.
- (2) In the case of a medicine containing a poison as one of the ingredients, such label shall state the proportion which the poison contained in the preparation bears to the total contents; and in the case of such proportion being stated as a percentage, the statement shall indicate whether the percentage is weight in weight, weight in volume or volume in volume.

36 Importation of certain drugs or appliances may be prohibited

If in the opinion of the Minister any drug, instrument or appliance brought into Tuvalu is or is likely to be injurious to the health or well-being of any person, he may certify in writing that the same should not be allowed to be imported:

Provided that this section shall not apply to drugs, medicines, instruments or appliances imported by qualified medical practitioners, registered pharmacists,

qualified veterinary surgeons or qualified dentists for bona fide medical, veterinary or dental treatment.

PART VI - POISONS

37 Importation and sale of poisons

- (1) No person shall import any poison except under a licence issued by the Minister:

Provided that this subsection shall not apply to the importation of poisons by qualified medical practitioners, registered pharmacists, qualified veterinary surgeons or qualified dentists for bona fide medical, veterinary or dental treatment.

- (2) No person shall sell or deal in any of the several articles included in Schedule 3, hereinafter referred to as “the Poisons List”, except in the manner prescribed in this Ordinance.

Schedule 3

- (3) The Minister may from time to time by order declare that any article named therein shall be deemed a poison within the meaning of this Ordinance and be added to Part I or Part II of Schedule 3, as may be by such order directed.
- (4) Any such order shall be published in the Gazette and on the expiration of 3 months from publication thereof, the article named therein shall be deemed to be added to such part of the said Schedule as may be directed in the order.
- (5) Any person acting in contravention of this section shall be liable to a fine of \$200, and in the case of a continuing offence, to a further fine of \$10 for each day, subsequent to the day on which he is convicted, during which the offence continues.

38 Pharmacists to be authorised sellers of poisons

For the purposes of this Ordinance all registered pharmacists shall be authorised sellers of poisons and may, subject to the provisions of this Ordinance, sell and deal in poisons.

39 Poisons licence

On the application of any holder of a store licence, and on payment of the prescribed fee, the Minister may issue to such person a licence to sell poisons, hereinafter referred to as a “poisons licence”, provided that —

- (a) he is satisfied that the applicant is a fit and proper person to hold such a licence;
- (b) such licence shall only apply to one place of business;
- (c) no licence shall be granted empowering the holder thereof to sell or deal in any poisons included in Part I of the Poisons List;
- (d) such licence shall be for a period of 12 calendar months and may be renewed; and
- (e) such licence shall state specifically the poisons or class of poisons which the holder is licensed to sell or deal in.

40 Register of Premises

The Minister shall keep a book to be called “The Register of Premises” , which shall be in the form prescribed by regulations hereunder, and in which shall be entered the addresses of all premises where drugs, poisons or medicines are licensed to be sold, and such other particulars as may be prescribed by such regulations.

41 Prohibition and regulations with respect to the sale of poisons

- (1) Subject to the provisions of this Part no person shall —
 - (a) sell any poison included in Part I of the Poisons List, unless —
 - (i) he is an authorised seller of poisons; and
 - (ii) the sale is effected on premises registered under section 40; and
 - (iii) the sale is effected by or under the supervision of a registered pharmacist;
 - (b) sell any poison included in Part II of the Poisons List, unless either —
 - (i) he is an authorised seller of poisons and the sale is effected on premises registered under section 40; or
 - (ii) he is the holder of a poison licence and the sale is effected on premises registered under section 40;

- (c) sell any poison, whether included in Part I or Part II of the Poisons List, unless the container of the poison is labelled in the prescribed manner —
- (i) with the name of the poison; and
 - (ii) in the case of a preparation which contains a poison as one of the ingredients, with the prescribed particulars as to the proportion which the poison contained in the preparation bears to the total ingredients; and
 - (iii) with the word “poison” , or other prescribed indication of the character of the article; and
 - (iv) with the name of the seller of the poison and the address of the premises on which it was sold.
- (2) Subject to the provisions of this Part and to any regulations made under this Ordinance dispensing with or relaxing any of the requirements of this subsection —
- (a) it shall not be lawful to sell any poison in Part I of the Poisons List to any person, unless that person is either —
 - (i) certified in the manner prescribed by regulations and by a person authorised by regulations to give a certificate for the purposes of this section; or
 - (ii) known by the seller or by some registered pharmacist in the employment of the seller at the premises where the sale is effected;

to be a person to whom the poisons may properly be sold:

Provided that no poison shall be sold or delivered to any person under the age of 21 years;

- (b) the seller of any such poison shall not deliver it until —
 - (i) he has made or has caused to be made an entry in a book to be kept for that purpose, hereinafter called “The Poisons Book”, stating in the form prescribed by regulations the date of the sale, the name and address of the purchaser and of the person, if any, by whom the certificate required under paragraph (a) was given, the name and quantity of the article sold and the purpose for which it is stated by the purchaser to be required; and
 - (ii) the purchaser has affixed his signature to the entry aforesaid.

42 Exemption with respect to medicines

- (1) Nothing in the foregoing section shall apply —
 - (a) to a medicine which is supplied by a qualified medical practitioner for the purposes of medical treatment, by a qualified dentist for the purposes of dental treatment, or by a qualified veterinary surgeon for the purposes of animal treatment;
 - (b) to a medicine which is dispensed by a registered pharmacist at his place of business; or
 - (c) to a poison forming part of the ingredients of a medicine which is supplied by a registered pharmacist at his place of business:

Provided that the requirements contained in the following provisions of this section shall be satisfied in relation thereto.

- (2) The medicine shall be distinctly labelled with the name and address of the person by whom it was supplied or dispensed.
- (3) On the day on which the medicine was supplied or dispensed or, if that be not reasonably practicable, on the day next following that day, there shall be entered in the prescription book the following particulars —
 - (a) the date on which the medicine was supplied or dispensed;
 - (b) the ingredients of the medicine and the quantity thereof supplied;
 - (c) if the medicine was dispensed by a registered pharmacist the name or initials and, if it is known, the address of the person to whom, and the date on which, the prescription was given;
 - (d) if the medicine was not so dispensed, the name and address of the person to whom it was supplied:

Provided that the provisions of this subsection shall, in the case of a medicine supplied on a prescription on which the medicine has been supplied by the seller on a previous occasion, be deemed to be complied with if the day on which the medicine is supplied and the quantity thereof supplied are entered in the prescription book on that day or, if that is not reasonably practicable, on the day next following that day, together with a sufficient reference to an entry in that book duly recording the dispensing of the medicine on the previous occasion.

- (4) In the case of a medicine which is supplied or dispensed by a registered pharmacist and is compounded by the person supplying or dispensing it or by a person in his employment, the medicine shall have been compounded or dispensed by or under the immediate and personal supervision of a registered pharmacist.

- (5) In the case of a medicine which is supplied or dispensed by a registered pharmacist, the supplying or dispensing of the medicine shall be effected by or under the immediate and personal supervision of a registered pharmacist.

43 Exemption with respect to sales wholesale and sales to certain persons

Except as provided by regulations made hereunder nothing in the foregoing provisions of this Part shall extend to or interfere with —

- (1) the sale of poisons by wholesale dealing, provided that —
- (a) such sale is to a registered pharmacist or to a holder of a poisons licence; or
 - (b) such sale is to a person who requires the article —
 - (i) for the purpose of his trade or business; or
 - (ii) for the purposes of enabling him to comply with any requirements made by or in pursuance of any Ordinance with respect to the medical treatment of persons employed by that person in any trade or business carried on by him; or
- (2) the sale of an article to a qualified medical practitioner, qualified dentist or qualified veterinary surgeon for the purpose of his profession.

44 Use of titles, emblems and descriptions

No holder of a poisons licence shall use in connection with his ~business any title, emblem or description reasonably calculated to suggest that he is entitled to sell any poison other than a poison which he is under this Ordinance entitled to sell; and if any person acts in contravention of this section, he shall be liable, in respect of each offence, to a fine of \$100, and in the case of a continuing offence, to a further fine of \$10 for each day, subsequent to the day on which he is convicted, during which the offence continues.

45 Prohibition of sale of poisons by means of automatic machine

It shall not be lawful for a poison to be exposed for sale in or offered for sale by means of an automatic machine, and any person acting in contravention of this section shall be liable to a fine of \$200, and in the case of a continuing offence, to a further fine of \$10 for each day, subsequent to the day on which he is convicted, during which the offence continues.

PART VII - MISCELLANEOUS

46 Power to make regulations

- (1) The Minister may make regulations with respect to any of the following matters or for any of the following purposes —
- (a) the manufacture of pharmaceutical preparations containing poisons;
 - (b) the sale, whether wholesale or retail, or the supply of poisons by or to any person or classes of persons, and in particular, but without prejudice to the generality of the foregoing provisions —
 - (i) for regulating or restricting the sale or supply of poisons by holders of a poisons licence, and for prohibiting the sale of any specified poison or class of poisons by any class of such licensed sellers of poisons;
 - (ii) for prohibiting the sale by retail of poisons (being included in Part I of the Poisons List in Schedule 3) except on a prescription duly given by a qualified medical practitioner, qualified dentist or qualified veterinary surgeon, and for prescribing the form and regulating the use of prescriptions given for the purposes of regulations made under this paragraph;
 - (iii) for dispensing with or relaxing any of the provisions contained in section 41 (2) or section 43 relating to the sale of poisons;
 - (iv) the storage, transport and labelling of poisons;
 - (v) the containers in which poisons may be sold or supplied;
 - (vi) the additions to poisons of specified ingredients for the purposes of rendering them readily distinguishable as poisons;
 - (vii) the manufacture, compounding and dispensing of drugs and poisons;
 - (viii) the period for which any books required to be kept for the purposes of Part VI are to be preserved;
 - (ix) the period for which any certificate given under Part VI is to remain in force;
 - (x) for requiring persons in charge of the manufacture of pharmaceutical preparations containing poisons to be registered pharmacists;

- (xi) for prescribing anything which by this Ordinance is to be prescribed by regulations;
 - (xii) the forms to be used in pursuance of this Ordinance;
 - (xiii) the manner of keeping the registers and the particulars to be entered therein;
 - (xiv) the scale of fees to be charged and paid in respect of any application, registration, certificate or other proceedings, act or thing provided or required under this Ordinance; .
 - (xv) the control of the professional conduct of registered pharmacists and the practice of the profession;
 - (xvi) the extent to which the British Pharmaceutical Codex, published by direction of the Pharmaceutical Society of Great Britain, or the Australasian Pharmaceutical Formulary, published by the Australasian Pharmaceutical Conference on behalf of the Pharmaceutical Societies of Australia and New Zealand, shall be accepted as a statement of official standards or quality or composition of drugs or medicines, and of the methods of preparation of drugs or medicines, and of compounding all mixtures thereof; and
 - (xvii) the qualifications of apprentices and assistants and the conditions under which apprentices or assistants may be employed;
- (c) the conditions (including the keeping of records) to be observed in the use of poisons for industrial or agricultural purposes.
- (2) The power to make regulations under this section with respect to poisons includes the power to make regulations with respect to any class of poisons or any particular poison.

47 General penalty

- (1) A person who acts in contravention of or fails to comply with any of the provisions of this Ordinance, or any regulation made under this Ordinance, for which no specific penalty is prescribed, shall be liable to a fine of \$100, and in the case of a continuing offence, to a further fine of \$20 for every day, subsequent to the day on which he is convicted, during which the offence continues.
- (2) In the case of proceedings against a person under this section for or in connection with the sale, exposure for sale or supply of a poison effected by an employee —

- (a) it shall not be a defence that the employee acted without the authority of the employer; and
 - (b) any material fact known to the employee shall be deemed to have been known to the employer.
- (3) Notwithstanding any enactment prescribing the period within which proceedings may be commenced, proceedings for an offence under this Ordinance may be commenced at any time within the period of 12 months next after the date of the commission of the offence; or, in the case of proceedings instituted by or by the direction of the Attorney-General, either within the period aforesaid or within the period of 3 months next after the date on which evidence sufficient, in the opinion of the Attorney General, to justify a prosecution for the offence comes to his knowledge, whichever period ends on the later date; and for the purposes of this subsection, a certificate purporting to be signed by the Attorney-General as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

48 Application of Customs Ordinance

Articles the importation of which is prohibited by this Ordinance and, to the extent to which their importation is prohibited, articles the importation of which is restricted by this Ordinance, shall be deemed to be goods the importation of which is prohibited under the Customs Ordinance; and subject to the provisions of this Ordinance, the said Ordinance and any Ordinance amending the same shall apply to such articles.

Cap.55

SCHEDULE 1

(Section 7)

Canada.	Queensland
New Zealand.	South Australia.
South Africa.	Tasmania.
Eire.	Victoria.
New South Wales.	Western Australia.
Fiji.	

SCHEDULE 2

(Section 29)

Epsom Salts	Bicarbonate of Soda.
Glauber Salts.	Soda Crystals (Washing Soda).
Castor Oil	Cod Liver Oil
Sulphur.	Eucalyptus Oil
Glaxo	Fluid Magnesia.
Lactogen.	Lucca Oil
Alum	Cream of Tartar.
Saltpetre.	Glycerine.

SCHEDULE 3

(Section 37)

POISONS LIST**PART I**

Acetanilide; alkyl acetanilides.

Alkali fluorides other than those specified in Part II of this List Alkaloids, the following; their salts, simple or complex —

Acetyldihydrocodeinone; its esters Aconite; alkaloids of Apomorphine.

Atropine.

Belladonna; alkaloids of Benzoylmorphine. Benzylmorphine.

Brucine

Calabar bean; alkaloids of.

Coca; alkaloids of.

Cocaine

Codeine.

Colchicine

Coniine.

Cotarnine.

Curarine

Diacetylmorphine.

Dihydrocodeinone; its esters

Dihydrohydroxycodeinone; its esters

Dihydromorphine; its esters

Oihydromorphinone; its esters.

Ecgonine; its esters.

Emetine.

Ephedra; alkaloids of.

- Ergot; alkaloids of.
- Ethylmorphine.
- Gelsemium; alkaloids of.
- Homatropine.
- Hyoscine.
- Hyoscyamine.
- Jaborandi; alkaloids of.
- Lobelia; alkaloids of. Morphine. Papaverine.
- Pomegranate; alkaloids of.
- Quebracho; alkaloids of, other than the alkaloids of red quebracho.
- Sabadilla; alkaloids of.
- Solonaceous alkaloids not otherwise included in this List
- Stavesacre; alkaloids of.
- Strychnine.
- Thebaine.
- Veratrum; alkaloids of.
- Yohimba; alkaloids of.
- Ally lisopropylacetyl urea.
- Amidopyrine; its salts
- Amino-alcohols, esterified with benzoic acid, phenylacetic acid, phenylpropionic acid, cinnamic acid or the derivatives of these acids.
- Amphetamines (beta-aminopropylbenzene and beta-aminoisopropyl-benzene).
Amyl nitrite
- Anti-biotic group, substances of the, including penicillin, streptomycin and their preparations.
- Antimony, chlorides of, oxides of antimony; sulphides of antimony; antimonates; antimonites; organic compounds of antimony.
- Arsenical substances, the following, except those specified in Part II of this List; arsenic, halides of; oxides of arsenic; arsenates, arsenites, organic compounds of arsenic.
- Barbituric acid; its salts; derivatives of barbituric acid, their salts; compounds of barbituric acid, its salts, its derivatives, their salts with any other substance.

Barium, salts of, other than barium sulphate and the salts of barium specified in Part II of this List.

Butyl chloral hydrate.

Cannabis (the dried flowering or fruiting tops of *Cannabis sativa* Linn.) the resin of cannabis; extracts of cannabis, tinctures of cannabis; cannabin tannate.

Cantharidin; cantharidates

Chloral formamide

Chloral hydrate.

Chloroform.

Creosote obtained from wood.

Croton; oil of.

Diemenodiphenyl sulphone, its derivatives.

Digitalis, glycosides of, other active principles of digitalis.

Dinitrocresols; dinitronaphthols, dinitrophenols, dinitrothymols.

Elaterin.

Ergot (the sclerotia of any species of *Claviceps*); extracts of ergot; tinctures of ergot.

Erythrityl tetranitrate

Glyceryl trinitrate

Guanidines, the following: polymethylene diguanidines, dipara-anisylphenetyl guanidine.

Hydrocyanic acid; cyanides; double cyanides of mercury and zinc.

Insulin

Lead acetates; compounds of lead with acids from fixed oils.

Mannityl hexanitrate.

Mercury, oxides of; nitrates of mercury; mercuric ammonium chlorides; potassio-mercuric iodides; mercuric oxycyanides; mercuric thiocyanate.

Metanitrophenol; orthonitrophenol; paranitrophenol. Nux Vomica.

Opium.

Othocaine; its salts

Quabain.

Oxalic acid; metallic oxalates other than potassium quadroxalate.

Oxycinchonic acid, derivatives of; their salts; their esters

P-aminobenzenesulphonamide, Sulphonilamide, and preparations thereof and analogous compounds and derivatives and preparations thereof, whether described as Prontosil, Prontylin, Septasine, Soluseptasine, Sulphonamide-p or any other trade-name, trade-mark or designation.

Para-amino-benzoic acid; esters of; their salts

Phenetidy I phenacetin.

Phenols (any member of the series of phenols of which the first member is phenol and of which the molecular composition varies from member to member by 1 atom of carbon and 2 atoms of hydrogen) except in substances containing less than 60 per cent weight in weight, of phenols; compounds of phenol with a metal except in substances containing less than the equivalent of 60 per cent weight in weight, of phenols.

Phenylcinchoninic acid; salicylcinchonic acid; their salts; their esters

Phenylethylhydantoin; its salts; its acyl derivatives; their salts

Phosphorus, yellow.

Picric acid.

Picrotoxin

Pituitary gland, the active principles of.

Savin; oil of.

Strophanthus; glycosides of strophanthus.

Sulphonal; alkyl sulphonals.

Suprarenal gland, the active principles of, their salts

Thallium; salts of.

Thyroid gland, the active principles of, their salts.

Tribromethyl alcohol.

PART II

Ammonia.

Arsenical substances, the following —

Arsenic sulphides.	Copper arsenites.
Arsenious oxide.	Lead arsenates.
Calcium arsenates.	Potassium arsenites
Calcium arsenites	Sodium arsenates.
Copper acetoarsenites	Sodium arsenites.
Copper arsenates.	Sodium thioarsenates

Barium, salts of, the following —

Barium carbonate.
Barium silicofluoride.

Formaldehyde.

Hydrochloric acid.

Hydrofluoric acid; potassium fluoride; sodium fluoride; sodium silicofluoride
Mercuric chloride; mercuric iodide; organic compounds of mercury.

Nicotine; its salts

Nitric acid.

Nitrobenzene.

Phenols as defined in Part I of this List in substances containing less than 60 per cent weight in weight, of phenols; compounds of phenol with a metal in substances containing less than the equivalent of 60 per cent weight in weight, of phenols.

Phenylene diamines; toluene diamines; their salts.

Potassium hydroxide.

Potassium quadroxalate.

Sodium hydroxide

Sulphuric acid.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References