



VIEW SUMMARY

The legislation that is being viewed is valid for **19 Jan 2007**.

Poisons Act 1971 (No. 81 of 1971)

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Poisons Act 1971

An Act to make provision with respect to the regulation, control, and prohibition of the importation, making, refining, preparation, sale, supply, use, possession, and prescription of certain substances and plants and matters incidental thereto, and to repeal certain enactments

[Royal Assent 14 DECEMBER 1971]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART I - Preliminary

1. Short title and commencement

(1) This Act may be cited as the *Poisons Act 1971*.

(2) Subsection (1) of section 2 shall commence on the day on which Part III commences and subsection (2) of that section shall commence on the day on which Part V commences.

(3) The remaining provisions of this Act (other than this section, Division 1 of Part II, and section 14) shall commence on such days respectively as are fixed by proclamation in relation to each of those provisions.

2. Repeal and savings

(1) The *Poisons Act 1916*, the *Poisons Act 1959*, and the *Poisons Act 1964* are repealed.

(2) The *Dangerous Drugs Act 1959*, the *Dangerous Drugs Act 1963*, the *Dangerous Drugs Act 1971*, and the *Dangerous Drugs Act (No. 2) 1971* are repealed.

(3) Notwithstanding the repeals effected by this section –

(a) a person who is required by or under the *Poisons Act 1916* to preserve or retain a book, letter, telegram, order, or other document referred to in that Act or in the regulations made thereunder for any period shall continue to preserve or retain that book, letter, telegram, order, or other document for that period as if that Act had not been repealed;

(b) a certificate under section 6 of the *Poisons Act 1916* that is in force immediately before the commencement of section 27 of this Act shall be deemed to be a licence under the last-mentioned section and the holder thereof shall be deemed to be the holder of a licence under that section, and such a certificate continues in force, subject to this Act, until the expiration of the term for which it was granted under that Act but may be cancelled in accordance with the provisions of this Act; and

(c) a licence or an authority granted under the *Dangerous Drugs Act 1959* and in force thereunder immediately before the commencement of Part V of this Act shall be deemed to have been granted under the provisions of this Act, and, subject to this Act, continues in force until the day on which it would have expired if that Part had not commenced, but may be cancelled, suspended, or renewed under and in accordance with the provisions of this Act.

3. Interpretation

(1) In this Act, unless the contrary intention appears –

"**aircraft**" includes a helicopter, a hovercraft, and an autogiro;

"**analysis**", in relation to a substance, includes any bacteriological, biochemical, electrical, electrochemical, microscopical, pathological, or other examination or test of or applied to the substance;

"**analyst**" means a person appointed as an analyst under section 19, and includes the Government Analyst;

"**automatic machine**" means a machine or mechanical device that is 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 agent at the time of the sale or supply;

"**boat**" includes a vessel or water craft of any description;

"**coca leaves**" means the leaves of any plant of the genus *erythroxylacae* from which cocaine may be extracted either directly or by chemical transformation;

"**container**", used in relation to a substance, means a vessel, bottle, tube, capsule, tin, box, case, wrapper, cover, envelope, or other like receptacle that immediately contains the substance;

"**court**" includes the Supreme Court or a judge, a magistrate, and 2 or more justices in petty session;

"**dangerous poison**" means a substance that is, for the time being, specified in Schedule 7 to the Poisons List;

"**dentist**" means a person who is registered as a dentist under the *Dental Practitioners Registration Act 2001*;

"**domestic poison**" means a substance that is, for the time being, specified in Schedule 5 to the Poisons List;

"**drug dependency**" has the meaning assigned to that expression by an order for the time being in force under subsection (2) of this section;

"**hazardous poison**" means a substance that is, for the time being, specified in Schedule 1 to the Poisons List;

"Indian hemp" means –

- (a) any plant or part of a plant of the genus *cannabis*;
- (b) the resin, whether crude or purified, obtained from any plant or part of a plant of the genus *cannabis*; or
- (c) any preparation containing any such resin –

by whatever name that plant, part, resin, or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of any such plant from which the resin has been extracted;

"industrial or agricultural poison" means a substance that is, for the time being, specified in Schedule 6 to the Poisons List;

"inspector" means a person appointed and holding office under section 23;

"label" includes a tag, brand, mark, or statement in writing on or attached to or used in connection with a container or package containing a scheduled substance, and **"labelled"** has a corresponding meaning;

"licensed manufacturing chemist" means a person who holds a subsisting licence under section 16(1)(a);

"licensed wholesale chemist" means a person who holds a subsisting licence under section 16(1)(b);

"medical practitioner" means a registered medical practitioner and, except in section 36 and Part V, includes a person who is entitled under the law of a State other than this State or of a Territory of the Commonwealth to practise medicine or any branch of medicine in that State or Territory;

"medicinal opium" means raw opium that has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the *British Pharmacopoeia*, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with a neutral substance;

"medicinal poison" means a substance that is, for the time being, specified in Schedule 2 to the Poisons List;

"narcotic substance" means a substance that is, for the time being, specified in Schedule 8 to the Poisons List;

"opium poppy" means the plant of the species *Papaver somniferum*;

"package", used in relation to a substance, includes any means by which the substance may, for transport, for carriage, for storage, or for sale, be cased, covered, enclosed, contained, or packed;

"pharmaceutical chemist" means a person who is registered as a pharmacist under the Pharmacists Registration Act 2001;

"**pharmacy trainee**" means a person who is undergoing an approved preregistration program referred to in section 21(1)(b) of the *Pharmacists Registration Act 2001*;

"**poison**" means a substance that is, for the time being, specified in Schedules 1, 2, 3, 5, 6, or 7 to the Poisons List;

"**poisons book**" means the poisons book as defined in section 28;

"**Poisons List**" means the list for the time being in force as declared by order pursuant to section 14(1);

"**potent substance**" means a substance that is, for the time being, specified in Schedule 3 to the Poisons List;

"**prohibited plant**" means –

- (a) the opium poppy;
- (b) coca leaves;
- (c) Indian hemp; and
- (d) any other plant or part of a plant that is declared by the Minister, by order, to be a prohibited plant for the purposes of this Act;

"**prohibited substance**" means –

- (a) diacetylmorphine and its salts, and any preparation, admixture, extract, or other substance containing any proportion of diamorphine; and
- (b) any other substance that is declared by the Minister, by order, to be a prohibited substance for the purposes of this Act;

"**public hospital**" means a hospital maintained and operated by or on behalf of the State;

"**public institution**" means –

- (a) a State authority;
- (b) a public hospital;
- (c) the University of Tasmania;
- (d) a technical college or technical school established under the *Education Act 1932*;
- (e) the College of Advanced Education; and
- (f) any other institution or establishment that is not carried on for private gain or reward and is declared by the Minister, by order, to be a public institution for the purposes of this Act;

"**raw narcotic**" means –

(a) raw opium; and

(b) any other substance that is declared by the Minister, by order, to be a raw narcotic for the purposes of this Act;

"**raw opium**" includes powdered or granulated opium but does not include medicinal opium;

"**registered nurse**" means a person registered under the *Nursing Act 1995*;

"**the regulations**" means regulations made and in force under this Act;

"**restricted substance**" means a substance that is, for the time being, specified in Schedule 4 to the Poisons List;

"**scheduled substance**" means a substance that is, for the time being, specified in any of the schedules to the Poisons List;

"**Secretary**" means the Secretary of the Department;

"**sell**" means sell, whether by wholesale or retail, and includes –

(a) offer or expose for sale;

(b) keep or have in possession for sale;

(c) barter or exchange;

(d) deal in or agree to sell;

(e) send, forward, deliver, or receive for sale or on sale; and

(f) authorize, direct, cause, permit, or suffer any of those acts or things to be done –

and "**sale**" and "**sold**" have corresponding meanings;

"**State authority**" means a person or body of persons constituted, established, or appointed under an Act or in the exercise of the prerogative rights of the Crown to administer or control any department, business, undertaking, or institution on behalf of the State;

"**substance**" includes a preparation, an admixture, and a salt or derivative of a substance;

"**supply**", in relation to a substance, includes –

(a) administer a substance, whether orally, subcutaneously, or by any other means;

(b) dispense a substance on prescription; and

(c) offer or agree to supply a substance;

"**therapeutic use**" means a use for the purpose of or in connection with –

- (a) preventing, diagnosing, curing, or alleviating a disease, ailment, defect, or injury in persons or animals;
- (b) influencing, inhibiting, or modifying a physiological process in persons or animals;
- (c) testing the susceptibility of persons or animals to a disease or ailment; or
- (d) destroying or inhibiting micro-organisms that may be harmful to persons or animals;

"**traffic**" includes keep or have in possession for trafficking, and "**trafficking**" has a corresponding meaning;

"**vehicle**" means any mode of transport, other than an aircraft or a boat;

"**veterinary surgeon**" means a registered veterinary surgeon as defined in the *Veterinary Surgeons Act 1987*;

"**wholesale dealing**" –

- (a) means the sale or supply by a wholesale dealer in the ordinary course of his business to persons authorized by or under this Act or the *Pharmacists Registration Act 2001* to be in possession of or to sell a scheduled substance; and
- (b) includes the sale or supply to other persons in wholesale quantities in the ordinary course of that business for use in a public institution or in connection with a prescribed profession, business, trade, or industry carried on by a person who requires any such substance for use, but not for resale, in connection with his profession, business, trade, or industry.

(1A) In this Act, a reference to an analysis or examination of a plant is a reference to such an analysis or examination for the purpose of determining whether or not the plant is a prohibited plant.

(2) The Minister may, by order, define the expression "drug dependency" for the purposes of this Act, and an order under this subsection may define that expression differently in relation to different classes or descriptions of drugs.

(3) Without restricting the generality of the expression "possession", a substance or plant shall, for the purposes of this Act, be deemed to be in the possession of a person so long as it is on any land or premises occupied by him or is enjoyed or controlled by him in any place or is in his order and disposition unless he proves that he had no knowledge of the substance or plant.

(4) In this Act, the expression "**this Part**" includes the regulations made under or for the purposes of the Part of this Act in which the expression occurs.

(5) For the purposes of the Poisons List or of any order made under section 14 or section 15 a substance may be described –

(a) by reference to any one or more of the following matters, namely:

- (i) the common or scientific name of the substance;
- (ii) any class of substances;
- (iii) the composition of the substance;
- (iv) the purposes for which the substance may be used;
- (v) the manner in which the substance is packed;
- (vi) such other factor or circumstance as may be specified in relation to the substance in the Poisons List or in any such order; or

(b) in any other manner so specified.

(6) In this Act, a reference to a Commonwealth Act cited by its short title includes a reference to that Act as amended from time to time and to any Commonwealth Act passed in substitution for that Act.

(7) On and after the commencement of Part V, a reference in any Act or in any regulation, rule, by-law, proclamation, order-in-council, order, notice, summons, warrant, process, or other instrument or document made, issued, given, served, filed, lodged, or registered under or for the purposes of any Act or for the purposes of any legal proceedings –

- (a) to the Dangerous Drugs Act 1959, shall be read as a reference to that Part; or
- (b) to a dangerous drug, shall be read as a reference to a narcotic substance.

4.

5. Construction of Act

The provisions of this Act are in addition to, and not in derogation of, the provisions of –

- (a) the Pharmacists Registration Act 2001;
- (b) the Fertilizers Act 1993;
- (ba)
- (c) the Public Health Act 1997; and
- (ca) the Food Act 2003; and
- (d) the Agricultural and Veterinary Chemicals (Control of Use) Act 1995 –

but the provisions of those Acts shall be read subject to the express provisions of this Act, and, where a provision of any of those Acts is inconsistent with a provision of this Act, the last-mentioned provision, to the extent of the inconsistency, prevails.

PART II - Administration

Division 1 -

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Division 2 - Classification of substances

14. The Poisons List

(1) As soon as practicable after the commencement of section 8 of the *Poisons Amendment Act 1984*, the Minister shall, subject to subsection (4), prepare a list of substances that in his opinion should be classified in accordance with subsection (2) and shall, by order published in the *Gazette*, declare that on and after a day specified in the order (being a day not earlier than the day on which the order is so published), the list shall have effect as the Poisons List for the purposes of this Act.

(2) The list referred to in subsection (1) shall contain the following schedules and the substances specified in those schedules shall be classified in accordance with the following provisions:

(a) Schedule 1 substances – Substances which are of such extreme danger to life as to warrant their sale or supply only by medical practitioners, dentists, pharmaceutical chemists, licensed manufacturing chemists, licensed wholesale chemists, veterinary surgeons, and persons licensed under section 27;

(b) Schedule 2 substances – Substances which are for therapeutic use and which require supervision of their distribution, such that their availability to the public should be restricted to supply from pharmacies and, where there is no pharmacy service available, from general dealers in medicinal poisons;

(c) Schedule 3 substances – Substances which are for therapeutic use and which are of a sufficiently dangerous nature to warrant their sale or supply only by medical practitioners, dentists, pharmaceutical chemists, and veterinary surgeons;

(d) Schedule 4 substances – Substances the supply of which should, in the public interest, be permitted only by or on the prescription of a medical practitioner, dentist, or veterinary surgeon or by a pharmaceutical chemist as prescribed in the regulations;

(e) Schedule 5 substances – Substances of a hazardous nature which should be readily available to the public but which may require caution in handling, use, and storage;

(f) Schedule 6 substances – Substances which should be readily available to the public but which are of a more hazardous or poisonous nature than those classified in Schedule 5;

(g) Schedule 7 substances – Substances which are of an exceptionally dangerous nature and which require the observance of special precautions in relation to their manufacture and use, and for which special individual labelling or availability requirements may be appropriate;

(h) Schedule 8 substances – Substances which are capable, or potentially capable, of producing addiction or dependence.

(3) Where immediately before the commencement of section 8 of the Poisons Amendment Act 1984 a list had effect as the Poisons List under this section, as in force before that commencement, that list shall, until rescinded, continue in force as if it had been made under subsection (1), and may from time to time be amended in accordance with section 15.

(4) In preparing a list of substances under subsection (1), the Minister shall have regard to any relevant classification of poisons made from time to time by the National Health and Medical Research Council or by the United Nations Organization or any of its agencies.

15. Amendment of the Poisons List

(1) The Minister may, at any time, by order published in the *Gazette*, amend the Poisons List as in force for the time being –

(a) by adding a specified substance to, or omitting a specified substance from, any of the Schedules contained in the List;

(b) by transferring a specified substance from any of those Schedules to any other of those Schedules;

(c) by amending an item appearing in any of those Schedules; and

(d) by omitting all or any of those Schedules and substituting a new Schedule or Schedules.

(2) In amending the Poisons List under subsection (1), the Minister shall have regard to any relevant classification of poisons referred to in section 14(4).

Division 3 - Licensing of manufacturing chemists and wholesale chemists

16. Licences

(1) The Minister, in his discretion, may, on the application of a person and on payment by that person of the prescribed fee, grant to that person –

(a) a licence to carry on business as a manufacturing chemist; or

(b) a licence to carry on business as a wholesale chemist.

(2) A licence under subsection (1)(a) –

(a) shall be in the prescribed form;

(b) may be granted unconditionally or subject to such conditions and restrictions as the

Minister determines and as are specified in the licence or are notified to the holder of the licence in accordance with subsection (8)(c); and

(c) while in force, has effect to authorize the holder thereof, subject to compliance with the provisions of this Act and the conditions and restrictions specified in the licence, to carry on, at the place stated in the licence, the business of making or refining for sale –

(i) scheduled substances generally;

(ii) a specified class or specified classes of scheduled substances; or

(iii) scheduled substances other than a specified class or specified classes thereof –

as may be set forth in the licence.

(3) A licence under subsection (1)(b) –

(a) shall be in the prescribed form;

(b) may be granted unconditionally or subject to such conditions and restrictions as the Minister determines and as are specified in the licence; and

(c) while in force, has effect to authorize the holder thereof, subject to compliance with the provisions of this Act and the conditions and restrictions specified in the licence, to carry on, at the place stated in the licence, the business of buying and selling, in the ordinary course of wholesale dealing –

(i) scheduled substances generally;

(ii) a specified class or specified classes of scheduled substances; or

(iii) scheduled substances other than a specified class or specified classes thereof –

as may be set forth in the licence.

(4) An application for a licence under this section –

(a) shall state the full name of the applicant and the place at which he proposes to carry on business pursuant to the licence; and

(b) shall contain such other particulars (if any) as may be prescribed.

(5) Where the holder of a licence under this section changes or proposes to change the place at which he carries on his business, the Minister shall, on production of the licence, amend the licence by substituting for the place of business stated therein the place to which the carrying on of that business has been or is proposed to be changed.

(6) A licence under this section, unless sooner cancelled, continues in force from the day on which it is granted until 31st December next following, but may be renewed annually, on the application of the holder of the licence and on payment for each renewal of the fee prescribed in relation to the renewal thereof.

(7) If the Minister, either on receipt of an application for the renewal of a licence granted under this section or at any time while such a licence is in force, considers it necessary or desirable in the public interest to do so, he may vary the conditions or restrictions to which the licence is subject –

- (a) by amending the existing conditions or restrictions;
- (b) by substituting new conditions or restrictions for existing conditions or restrictions;
- (c) by imposing additional conditions or restrictions; or
- (d) by amending a list or schedule of substances which forms part of those conditions or restrictions.

(8) Where the Minister varies the conditions or restrictions of a licence as provided by subsection (7), he shall do one of the following:

- (a) cause the licence to be appropriately amended to record the variation of the conditions or restrictions and to be returned to its holder;
- (b) issue a new licence in place of the existing licence, specifying in the new licence the conditions and restrictions of the licence as so varied;
- (c) serve on the holder of the licence a notice in writing specifying the variation of the conditions or restrictions.

(9) A variation of the conditions or restrictions of a licence does not have effect until the licence is returned to its holder, the new licence is issued to its holder, or the notice specifying the variation of the conditions or restrictions is served on the holder of the licence, as the case may be.

17. Refusal of licences and of renewals thereof

The Minister, in his discretion, may refuse –

- (a) to grant to a person applying therefor a licence under section 16; or
- (b) to renew a licence granted to a person under that section –

if that person has been, or is, convicted of an offence against this Act or of an enactment repealed by this Act of such a nature that in the opinion of the Minister (having regard to the nature of the offence and to all the circumstances of the case) it would be contrary to the public interest if that person were granted such a licence or, as the case may be, if such a licence granted to him were to continue in force.

18. Offences

(1) A person –

- (a) who –
 - (i) carries on the business of making or refining a scheduled substance for sale while not the holder of a licence under paragraph (a) of subsection (1) of section 16; or

(ii) carries on the business of buying or selling a scheduled substance in the course of a wholesale dealing while not the holder of a licence under paragraph (b) of that subsection;

(b) who, being the holder of a licence under section 16(1)(a), makes or refines any class of scheduled substances other than those that he is authorized by his licence to make or refine;

(c) who, being the holder of a licence under section 16(1)(b), buys or sells any class of scheduled substances other than those that he is authorized by his licence to buy and sell;

(d) who, being the holder of a licence under section 16(1)(b), sells a scheduled substance to a person who is not authorized under this Act to have in his possession, or to sell or supply, that particular substance; or

(e) who carries on any business referred to in paragraph (a) at a place of business not stated in a current licence granted to him under section 16 –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

(2) A person who –

(a) not being the holder of a licence under section 16(1)(a), calls himself, or causes or allows himself to be called or known as, a manufacturing chemist; or

(b) not being the holder of a licence under section 16(1)(b), calls himself, or causes or allows himself to be called or known as, a wholesale chemist –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

(3) Subject to subsection (4), nothing in the foregoing provisions of this section prohibits the making, refining, buying, or selling of scheduled substances by a person who is a –

(a) medical practitioner;

(b) pharmaceutical chemist;

(c) dentist; or

(d) veterinary surgeon.

(4) Subsection (3) does not authorize the making, refining, buying, or selling, by a person to whom that subsection relates, of a narcotic substance otherwise than –

(a) as permitted by Part V and the regulations thereunder; and

(b) in compliance in all respects with the provisions of that Part and of those regulations.

Division 4 - Analysts

19. Appointment and remuneration of analysts

(1) The Secretary may appoint State Service officers and State Service employees employed in the Department to be analysts for the purposes of this Act and those officers and employees are to hold

office in conjunction with State Service employment.

(1A) The Secretary may, with the approval of another Head of a State Service Agency, appoint State Service officers and State Service employees employed in that Agency, who possess competent knowledge, to be analysts for the purposes of this Act, and such officers and employees may hold office as analysts in conjunction with State Service employment.

(2) No person shall be appointed as an analyst who is directly or indirectly engaged or interested in the manufacture or sale of scheduled substances or any class or kind thereof.

(3) The Minister shall cause notice to be published in the *Gazette* when an appointment is made under this section stating the address of the place of residence or laboratory of the person appointed.

20.

21. Powers of the Government Analyst

The Government Analyst has and may exercise all the powers and authorities of an analyst appointed under this Division.

22. Disqualification of analysts

An analyst who offends against any of the provisions of this Act with respect to a prescribed method of analysis may, if the Minister is satisfied that the offence has been wilfully committed, be disqualified by the Minister for appointment as an analyst for such period as the Minister thinks fit.

Division 5 - General

23. Appointment of inspectors

(1) The Minister may, by notice in the *Gazette*, appoint such inspectors as he may consider necessary for the administration of this Act.

(2) The Minister shall not appoint a person as an inspector unless the person is –

(a) a State Service officer or State Service employee, in respect of whom the Head of the State Service Agency in which the officer or employee is employed has given his approval for the appointment; or

(b) a police officer; or

(c) an officer of the Public Service of the Commonwealth or of an authority of the Commonwealth.

(3) The Governor may enter into an arrangement with the Governor-General of the Commonwealth for the exercise and performance, by officers of the Commonwealth or of an authority of the Commonwealth, of the powers, duties, and functions of inspectors under this Act.

(4) An arrangement under this section may make provision for all or any matters necessary or convenient to be provided for or incidental to the carrying out of the arrangement and shall contain provisions for the variation of the arrangement and a provision to the effect that it may be terminated by the Governor at any time.

(5) While an arrangement under this section is in force, the powers, duties, and functions of an inspector under this Act may be exercised and performed by any officer of the Commonwealth or of an authority of the Commonwealth provided for by or under the arrangement, and a reference in this Act to an inspector shall be read as including a reference to such an officer.

24. Delegation of functions, &c.

(1) The Minister may, by writing under his hand, delegate to the Secretary or, on the recommendation of the Secretary, to a State Service officer or State Service employee employed in the Department all or any of the powers, duties, and functions of the Minister under this Act other than –

- (a) the power to make orders under this Act; and
- (b) the power of delegation.

(2) The Minister may, in pursuance of this section, delegate to different persons the powers, duties, and functions conferred or imposed on the Minister by different provisions of this Act.

(3) A delegation under this section is revocable at the will of the Minister and does not prevent the exercise or performance by the Minister of any of his powers, duties, or functions under this Act.

25. Duties of analysts and inspectors

(1) Where, under this Act, a substance is submitted or transmitted to an analyst for analysis by –

- (a) an inspector by whom the substance has been procured or seized; or
- (b) a person who, under [section 63](#), is entitled to have the substance analysed –

the analyst shall carry out, or arrange for and supervise the carrying out of, the analysis as soon as practicable after receiving the substance and shall, forthwith on the completion of the analysis, prepare a certificate of the result of the analysis in the prescribed form.

(1A) Where, for the purposes of any proceedings under this Act, substances or articles are transmitted by an inspector or police officer to an analyst for examination, the analyst shall carry out, or arrange for and supervise the carrying out of, the examination as soon as practicable after receiving the substances or articles and shall, on the completion of the examination, give a certificate of the result of the examination in the prescribed form, including, where appropriate, particulars as to the identity and quantity of the substances or articles.

(2) Where pursuant to [section 90\(1\)\(c\)](#) and [\(d\)](#) an inspector inspects stocks of a substance or plant he shall forthwith after the completion of the inspection prepare a certificate of the results of the inspection in the prescribed form.

25A. Authorization of registered nurses by Minister

(1) Where in a particular case the Minister is satisfied that the prescribed circumstances exist, he may authorize in writing a registered nurse to be in possession of and to supply restricted substances or narcotic substances or restricted substances or narcotic substances of a class specified in the authorization, in such circumstances and subject to such conditions as may be so specified.

(2) The Minister may at any time revoke an authorization under [subsection \(1\)](#) or vary the class of

restricted substances or narcotic substances to which such an authorization relates or vary the circumstances in which, or the conditions subject to which, such an authorization may be exercised.

PART III - Poisons and Restricted Substances

Division 1 - Restrictions on the sale, supply, and possession of poisons and restricted substances

26. Sale and supply of potent substances and hazardous and medicinal poisons

(1) A person must not sell or supply to another person a substance to which this section applies unless the first person is –

- (a) the holder of a licence in force under section 27 to sell or supply that substance; or
- (b) a person authorised under subsection (1A).

Penalty:

Fine not exceeding 10 penalty units.

(1A) A registered medical practitioner, pharmaceutical chemist, licensed manufacturing chemist, licensed wholesale chemist, dentist or veterinary surgeon, in the lawful practice of his or her profession or business, is authorised to sell or supply to another person a substance to which this section applies.

(1B) A person must not sell or supply a restricted substance to another person unless the first person is a person authorised under subsection (1C).

Penalty:

Fine not exceeding 20 penalty units.

(1C) A registered medical practitioner, dentist or veterinary surgeon, in the lawful practice of his or her profession or business, is authorised to sell or supply a restricted substance to another person.

(2) Subsections (1) and (1A) do not apply to or in relation to the supply, by way of free distribution, of clinical samples of a substance to which this section applies or of a 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 the medical practitioner, dentist, or veterinary surgeon.

(3) Nothing in this section authorizes a medical practitioner, a dentist, or a veterinary surgeon to sell or supply to another person in an open shop a substance to which this section applies unless he is the holder of a licence under section 27 authorizing him to do so.

(4) In this section, "**substance to which this section applies**" means a substance that is –

- (a) a hazardous poison;
- (b) a medicinal poison; or
- (c) a potent substance.

27. Licences to sell certain substances

(1) The Minister may grant a licence to sell or supply substances to which this section applies to a person (not being a pharmaceutical chemist) who –

(a) keeps an open shop in a place that is situated at least 10 kilometres by the nearest practicable route from a place in which a pharmaceutical chemist carries on the business of a pharmacy; and

(b) produces to the Minister a certificate from a medical practitioner, or a magistrate, or the mayor of the municipal area in which that person carries on business certifying that that person is a fit and proper person to sell, in the place where his shop is situated, substances to which this section applies.

(2) An application for a licence under this section –

(a) shall be in the prescribed form and shall contain the prescribed particulars; and

(b) shall be accompanied by the prescribed fee.

(3) A licence under this section –

(a) shall be in the prescribed form;

(b) may be granted unconditionally or subject to the observance of such conditions and restrictions as are specified in the licence or are notified to the holder of the licence in accordance with subsection (3B)(c);

(c) unless it is sooner cancelled, continues in force from the day following the day on which it is granted until the following 31st December, but, subject to this section, may be renewed, on payment of the prescribed fee for each renewal, for further periods not exceeding 12 months at any one time; and

(d) while in force authorizes the holder thereof, subject to this Act, to sell or supply to other persons in and from the shop specified in the licence substances to which this section applies, or such classes or kinds of those substances, as are specified in the licence.

(3A) If the Minister, either on receipt of an application for the renewal of a licence granted under this section or at any time while such a licence is in force, considers it necessary or desirable in the public interest to do so, he may vary the conditions or restrictions to which the licence is subject –

(a) by amending the existing conditions or restrictions;

(b) by substituting new conditions or restrictions for existing conditions or restrictions; or

(c) by imposing additional conditions or restrictions.

(3B) Where the Minister varies the conditions or restrictions of a licence as provided by subsection (3A), he shall do one of the following:

(a) cause the licence to be appropriately amended to record the variation of the conditions or restrictions and to be returned to its holder;

(b) issue a new licence in place of the existing licence, specifying in the new licence the conditions and restrictions of the licence as so varied;

(c) serve on the holder of the licence a notice in writing specifying the variation of the conditions or restrictions.

(3C) A variation of the conditions or restrictions of a licence does not have effect until the licence is returned to its holder, the new licence is issued to its holder, or the notice specifying the variation of the conditions or restrictions is served on the holder of the licence, as the case may be.

(4) The Minister may revoke or refuse to renew a licence granted or previously renewed under this section on any of the following grounds:

(a) that, since the licence was granted or last renewed, a pharmaceutical chemist has commenced business at a pharmacy which is situated within 10 kilometres, by the nearest practicable route, of the place where the shop of the holder of the licence is situated;

(b) that the holder of the licence is a person who has been convicted of an offence against this Act and, by reason of that conviction, the Minister is of the opinion that the person is no longer a fit and proper person to hold the licence;

(c) that for a reason other than that referred to in paragraph (b) the holder of the licence is no longer a fit and proper person to hold the licence.

(5) The holder of a licence under this section –

(a) shall keep the substances to which the licence relates in such a receptacle and in such a manner as may be prescribed or as is specified in his licence;

(b) shall not keep or place, or cause or suffer to be kept or placed, in that receptacle any articles other than substances that he is authorized by his licence to sell or supply in and from his shop;

(c) shall permit an inspector at all reasonable times to inspect that receptacle and the licensee's method of keeping substances to which this section applies;

(d) shall not sell or supply substances to which this section applies otherwise than in unopened containers bearing the name, and the address of the place of business, of a licensed manufacturing chemist, a licensed wholesale chemist, or a pharmaceutical chemist, or, in the case of such a substance which was manufactured outside Tasmania, of the manufacturer of the substance; and

(e) shall comply with or not contravene, as the case requires, any condition or restriction to which the licence is subject.

(6) Without affecting the power of the Minister under subsection (4) to revoke a licence under this section, if the holder of such a licence contravenes or fails to comply with any provision of this section that is applicable to him he is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(7) In this section, "**substances to which this section applies**" means substances that are –

- (a) hazardous poisons;
- (b) medicinal poisons; or
- (c) potent substances.

28. Sale of certain substances to be entered and kept in a poisons book

(1) A person (in this section referred to as "the seller") who sells or supplies a hazardous poison to another person (in this section referred to as "the buyer") shall, before delivering that poison to the buyer

- (a) inquire the name, place of residence, and occupation of the buyer and the purpose for which the poison is required or stated to be required by the buyer; and
- (b) forthwith after making that inquiry, make in a book to be kept for the purpose by the seller (in this Act referred to as "the poisons book") a faithful entry of the sale or supply of the poison specifying –
 - (i) the poison so sold or supplied;
 - (ii) the quantity of the poison so sold or supplied;
 - (iii) all the particulars given by the buyer to the seller as to matters referred to in paragraph (a); and
 - (iv) the day of the month and the year of the sale or supply of the poison.

(2) Subject to sections 29 and 30, an entry made pursuant to subsection (1)(b) –

- (a) shall be signed by the seller and by the buyer; or
- (b) if the buyer declares that he is unable to write, shall be signed by the seller, who shall also –
 - (i) add to the entry the words "Buyer cannot write";
 - (ii) cause the buyer to place his mark against those words in the presence of a witness (other than the seller); and
 - (iii) cause the witness to sign his name as a witness.

(3) The poisons book –

- (a) shall be in the prescribed form; and
- (b) shall be preserved by the seller for a period of at least 5 years after the day on which the final entry in the book is made.

(4) A person who contravenes or fails to comply with a provision of this section that is applicable to him is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

29. Sales of certain substances by correspondence

(1) Where a person (in this subsection referred to as "the seller") sells or supplies a hazardous poison to another person (in this subsection referred to as "the buyer") as the result of a letter received by the seller from the buyer, the seller shall preserve that letter for a period of at least 5 years after the day on which it is received by him, and shall enter in the poisons book a memorandum specifying –

- (a) the date of that letter;
- (b) by whom that letter was written; and
- (c) the quantity and particulars of the hazardous poison ordered in that letter.

(2) A person (in this subsection referred to as "the seller") shall not sell or supply to another person (in this subsection referred to as "the buyer") a hazardous poison as the result of a letter received by the seller from the buyer –

- (a) unless –
 - (i) the seller is familiar with the buyer's signature; or
 - (ii) the buyer's signature has been witnessed, or purports to have been witnessed, by a justice of the peace or a clergyman or is authenticated by some person known to the seller, and the place of residence of the person by whom that signature is witnessed or authenticated is shown in that letter; and

(b) unless the entry in the poisons book relating to the sale or supply of that poison required to be made by [section 28](#) states the name and place of residence of the person by whom that signature is witnessed or authenticated, as shown in that letter.

(3) A person who contravenes or fails to comply with a provision of this section that is applicable to him is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

30. Sales of certain substances by telegram, &c.

(1) Where a hazardous poison is sold or supplied by a person (in this subsection referred to as "the seller") to another person (in this subsection referred to as "the buyer") as the result of a telegram received by the seller from the buyer, the seller shall preserve the telegram for a period of at least 5 years after the day on which it is received by him and shall enter in the poisons book a memorandum specifying –

- (a) the date of the telegram;
- (b) by whom the telegram was sent; and
- (c) the quantity and particulars of the hazardous poison ordered in the telegram.

(2) A person who fails to comply with a provision of this section that is applicable to him is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

31. Modification of section 28 in relation to certain sales, &c.

(1) To the extent to which the provisions of [section 28](#) require an entry in the poisons book to be signed by the person to whom a hazardous poison is sold or supplied, those provisions do not, if the

conditions referred to in subsection (2) are observed, apply to or in relation to the sale or supply of such a poison to a person (in this section referred to as "the buyer") who is a medical practitioner, dentist, or veterinary surgeon and who requires the poison for use for the purposes, or in the conduct, of his profession.

(2) The conditions to be observed for the purposes of subsection (1) are that the person (in this section referred to as "the seller") by whom a hazardous poison is sold or supplied as mentioned in that subsection –

(a) has received, before the sale or supply thereof, an order in writing signed by the buyer stating the name and address of the buyer and the name and quantity of the hazardous poison to be sold or supplied to him;

(b) is 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) delivers the poison personally to the buyer or sends it to the buyer by registered post;

(d) enters in the poisons book, in the appropriate column, the words "Signed order", followed by the date on which the order is executed; and

(e) preserves the order for a period of at least 5 years after the day on which he receives it.

(3) Notwithstanding any other provision of this Part, if the seller is satisfied that the buyer urgently requires a hazardous poison for use for the purposes, or in the conduct, of his profession but is, by reason of some emergency, unable before delivery either to furnish to the seller an order in writing duly signed, or to attend and sign the poisons book he may send the poison to the buyer to be handed over to him either in exchange for such an order or on the undertaking by the buyer to furnish such an order to the seller within the 24 hours next following.

(4) A person who –

(a) being the buyer, gives such an undertaking as is mentioned in subsection (3) and fails to deliver to the seller a signed order in accordance with the undertaking;

(b) whether he is the buyer or not, for the purpose of obtaining delivery of a hazardous poison under subsection (3), makes a statement that, to his knowledge, is false; or

(c) otherwise contravenes or fails to comply with a provision of this section that is applicable to him –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

32. Holders of licences under section 27 to produce poisons book on demand

(1) The holder of a licence under section 27, immediately on demand being made to him at his shop or place of business by an inspector, shall produce to the inspector the poisons book, together with any letters, telegrams, orders, and other documents by which hazardous poisons have been ordered from the holder and that are in his possession or under his control, and permit the inspector to examine and make copies of, or take extracts from, any entry in that book or any such letter, telegram, order, or document.

(2) If the holder of a licence under section 27 fails to comply with a demand made pursuant to subsection (1) by an inspector or to permit an inspector to examine or make copies or take extracts from any entry, letter, telegram, order, or document referred to in that subsection he is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

33. Restrictions on the sale of hazardous poisons

A person (in this section referred to as "the seller") shall not –

- (a) sell or supply a hazardous poison to a person who is under 18 years of age;
- (b) being a person under 18 years of age, sell or supply a hazardous poison to another person; or
- (c) otherwise than as referred to in section 29, or section 30, or section 31, sell or supply a hazardous poison to a person who is unknown to the seller unless –
 - (i) the sale is made in the presence of some witness who is known to the seller and knows the person to whom the poison is sold or supplied; and
 - (ii) any entry relating to the sale or supply of the poison required to be made under this Act is signed by the witness and the place of residence of the witness, as stated by him to the seller, has been stated in the entry before the poison is delivered.

Penalty:

Fine not exceeding 10 penalty units.

34. Owner, &c., of hazardous poisons not to leave them about unlabelled

(1) A person, being the owner or person having possession of a hazardous poison, shall not leave it in any place (whether ordinarily accessible to other persons or not) unless the container or package in which the poison is contained –

- (a) is clearly marked with the word "Poison"; and
- (b) is otherwise labelled or marked as prescribed.

Penalty:

Fine not exceeding 10 penalty units.

(2) This section does not apply to or in relation to a pharmaceutical chemist in the conduct of his business as such.

35.

36. Offences relating to certain restricted substances

(1) A person must not have in his or her possession, or attempt to obtain possession of, a substance to which this section applies unless that person –

(a) is a person authorised under subsection (1A); or

(b) has obtained possession of the substance –

(i) from a registered medical practitioner, dentist or veterinary surgeon acting in the course of the lawful practice of his or her profession or business; or

(ii) on and in accordance with a prescription for its supply to him or her issued by a person referred to in subparagraph (i), acting in the course of the lawful practice of his or her profession or business.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

(1A) A registered medical practitioner, pharmaceutical chemist, licensed manufacturing chemist, licensed wholesale chemist, dentist or veterinary surgeon, in the lawful practice of his or her profession or business, is authorised to have in his or her possession, or to attempt to obtain possession of, a substance to which this section applies.

(2) A person is not guilty of an offence against subsection (1) by virtue of his having in his possession, or attempting to obtain possession of, a substance to which this section applies 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, pharmaceutical chemist, dentist, or veterinary surgeon; or

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

(3) In this section,

"**substance to which this section applies**" means a restricted substance that is declared by the Minister, by order, to be a substance to which this section applies.

Division 2 - Dangerous poisons

37. Regulations for the control, &c., of the manufacture, use, &c., of dangerous poisons

(1) The Governor may make regulations for or with respect to –

(a) regulating and prohibiting the possession, manufacture, sale, supply, or use of dangerous poisons, either absolutely or except in such circumstances, or subject to such conditions, as may be prescribed; and

(b) the precautions to be taken in, or in connection with, the regulation and control of the manufacture, storage, use, distribution, or handling of any such poisons.

(2) A person who is guilty of an offence against a regulation made for the purposes of this section is liable to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or to both.

Division 3 - Exemptions

38. Limitation of application of certain provisions of Division 1 of this Part

(1) Section 26(1) and (1B) do not apply to or in relation to –

(a) the sale or supply of a restricted substance that is sold or supplied by a pharmaceutical chemist on and in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon;

(ab) the sale or supply of a class 1 substance that is sold or supplied by a pharmaceutical chemist on and in accordance with the prescription of an optometrist authorised to prescribe such a substance under Division 3A of Part 3 of the *Optometrists Registration Act 1994*;

(b) the sale or supply of a restricted substance (not being a specified psychotropic substance) that is sold or supplied by a pharmaceutical chemist otherwise than on and in accordance with such a prescription, but only where that sale or supply is made in accordance with such conditions (if any) as are prescribed in the regulations for the purposes of this paragraph;

(c) the supply of a restricted substance by a registered nurse in accordance with an authorization conferred on that nurse under section 25A;

(d) the administration to a person who, because of age or mental or physical disability, whether permanent or temporary, is incapable of caring for himself of –

(i) a substance to which section 26 applies by a parent or guardian of the person; or

(ii) a restricted substance by a parent or guardian of the person as prescribed by a medical practitioner;

(e) the administration to a person of a substance to which section 26 applies or a restricted substance by a registered nurse in accordance with the written directions of a medical practitioner;

(ea) the administration to a person's eye, or the supply, in the lawful practice of the profession of optometry –

(i) of a class 2 substance by a person who is a registered optometrist; or

(ii) of a class 1 substance by a registered optometrist who is authorised to administer such a substance under Division 3A of Part 3 of the *Optometrists Registration Act 1994*;

(f) the administration to a person of a local anaesthetic included in Schedule 4 of the *Poisons List* by a person who is a registered podiatrist under the *Podiatrists Registration Act 1995* in the lawful practice of the profession of podiatry;

(g) the administration to a person of a substance to which section 26 applies or a restricted substance by the master of a boat where the substance is required to be carried on a boat of that class by regulations or by-laws made under the *Marine and Safety Authority Act 1997* for the purpose of providing medical treatment of a passenger or crew member on the boat;

(h) the administration to a person of a substance to which section 26 applies or a restricted substance by an ambulance officer –

(i) at the direction of a medical practitioner; or

(ii) in accordance with the Field Protocols applying with respect to the administration of scheduled substances as approved by the Director of Ambulance Services from time to time; or

(i) the administration to a person of a substance to which section 26 applies or a restricted substance by a prescribed person or a member of a class of prescribed persons in circumstances prescribed by the regulations.

(1A) In subsection (1) –

"**class 1 substance**" means a substance which –

(a) is a substance to which section 26 applies or a restricted substance; and

(b) is prescribed as a class 1 substance;

"**class 2 substance**" means a substance which –

(a) is a substance to which section 26 applies or a restricted substance; and

(b) the Minister has determined, in writing, to be a class 2 substance;

"**registered optometrist**" has the same meaning as in the *Optometrists Registration Act 1994*;

"**specified psychotropic substance**" means a restricted substance that is designated in the regulations as a psychotropic substance for the purposes of subsection (1)(b).

(2) Section 36(1) does not apply to or in relation to a wholesale dealer who has in his possession, or attempts to obtain possession of, a substance to which that section applies for the purposes of a wholesale dealing.

(3) Sections 28, 29, 30, 31, and 33 do not apply to or in relation to the sale or supply of a hazardous poison –

(a) that is made up or compounded as a medicine by –

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

(ii) a pharmacy trainee under the direct personal supervision of a pharmaceutical chemist so acting –

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

(b) that is made up or compounded extemporaneously as a medicine by a pharmaceutical chemist so acting for a specific and individual case, if the medicine does not contain a

restricted substance; or

(c) that is made up or compounded as a medicine and 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 hazardous poison unless the container thereof bears the word "Poison" printed conspicuously thereon together with the name and address of the seller.

(4) Sections 26, 28, 29, 30, 31, and 33 do not apply to or in relation to the sale or supply of –

(a) photographic materials for the purposes of photography;

(b) a material or liquid containing a substance that is a hazardous poison or a medicinal poison (not being such a poison that is excluded by the regulations from the operation of this subsection) for the destruction of animals, birds, insects, or plants; or

(c) a substance that is a hazardous poison, medicinal poison, potent substance, or restricted substance by a wholesale dealer in the ordinary course of wholesale dealing.

PART IV - New Drugs

39. Interpretation

In this Part, unless the contrary intention appears –

"**drug**" means a substance –

(a) that is designed or intended for therapeutic use; or

(b) the sole or principal use of which is, or ordinarily is, a therapeutic use or use as an ingredient or component in the preparation or manufacture of a substance for therapeutic use;

"**new drug**" means a drug –

(a) that is not included in the latest edition for the time being of –

(i) the *British Pharmacopoeia*;

(ii) the *British Pharmaceutical Codex*; or

(iii) the *United States Pharmacopoeia*; or

(b) being a drug that is or contains a scheduled substance, in relation to which the method of manufacture, composition, route of administration, or indications for use is or are changed after the day on which that substance is first specified in a schedule to the Poisons List.

40. Classification of new drugs

(1) Before a new drug is first offered for sale to the public, the manufacturer, importer, or distributor

(as the case may require) of the new drug shall make application to the Minister –

(a) to classify the new drug by determining the schedule (if any) to the Poisons List in which the drug is to be specified; and

(b) to determine whether substances containing more or less than a specified percentage by weight or volume of that drug are to be excluded from, or included in, any of the schedules to the Poisons List.

(2) On receipt of an application under this section, the Minister –

(a) shall forthwith determine whether it is necessary to include the drug to which the application relates in a schedule to the Poisons List and, if he determines that it is necessary to include the drug in that List, shall determine in which of those schedules the drug should be included;

(b) if it appears to the Minister to be necessary to do so, may make a determination under subsection (1)(b); and

(c) shall make such order (if any) under section 15 as may be necessary for the purpose of giving effect to his determination.

(3) In making a determination under subsection (2)(a), the Minister shall have regard to whether or not the drug is included in any classification of poisons made by the National Health and Medical Research Council.

(4)

(5) The Minister shall cause his determination under subsection (2) with respect to an application under this section to be notified to the applicant in writing.

(6) A determination by the Minister under subsection (2) is final and conclusive.

(7)

41. Prohibition of the sale, &c., of a new drug until it is classified

(1) A person shall not –

(a) sell or supply a new drug; or

(b) cause, permit, or suffer a new drug to be sold or supplied –

to another person before an order under section 15 adding that drug to a schedule to the Poisons List has been made and has taken effect.

Penalty:

Fine not exceeding 10 penalty units.

(2) Subsection (1) does not apply to or in relation to a new drug in respect of which the Minister has, pursuant to section 40(5), notified the person by whom an application under that section has been made that the drug does not need to be specified in a schedule to the

Poisons List.**42. Power to prohibit the sale, &c., of a new drug**

(1) The Minister may at any time, by order, prohibit the sale or supply of any new drug, either absolutely or except on and subject to such conditions as are specified in the order.

(2) Notwithstanding the provisions of sections 40 and 41, where application is made under section 40 for the classification of a new drug the Minister may, before the new drug is classified, authorize the sale or supply of that drug to any person or public institution, but such a sale or supply shall be made only in compliance with such conditions as the Minister thinks fit, and as are specified by the Minister in writing.

43. Contravention, &c., of Ministerial order or conditions

A person who –

(a) contravenes or fails to comply with the provisions of an order under section 42(1); or

(b) sells or supplies a drug otherwise than in compliance with conditions specified by the Minister under section 42(2) –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

PART V - Special Provisions Relating to Narcotics, Prohibited Plants, and Prohibited Substances*Division 1 - Interpretation***44. Interpretation: Part V**

In this Part, unless the contrary intention appears –

"**approved port**" means a place that is declared by the Minister, by order, to be an approved port for the purposes of this Part.

*Division 2 - Restrictions on the importation, making, refining, preparation, sale, supply, possession, cultivation, and use of narcotics and prohibited plants***45. Restriction of importation**

(1) A person shall not import or bring into the State a raw narcotic or narcotic substance except into an approved port.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A person must not import or bring into the State a raw narcotic or narcotic substance

unless the person is –

- (a) the holder of a licence granted by the Minister under this Part, acting in accordance with the terms of that licence; or
- (b) a person authorised under subsection (3).

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) A pharmaceutical chemist, licensed manufacturing chemist or licensed wholesale chemist, in the lawful practice of his or her profession or business, is authorised to import or bring into the State a raw narcotic or narcotic substance.

46. Manufacture of narcotic substances

A person shall not make, refine, or prepare a narcotic substance unless he is, or is acting as the servant and under the orders of, a person who is the holder of a licence to manufacture such a substance granted under this Part and, if so required under the Narcotic Drugs Act 1967 of the Commonwealth, is also the holder of a licence under that Act.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

47. Sale and supply of narcotic substances, prohibited plants, and prohibited substances

(1) A person shall not –

- (a) sell or supply a raw narcotic or narcotic substance to another person; or
- (b) traffic in a raw narcotic or narcotic substance –

unless –

(c) the person is, or is acting as the employee of and under the direction of, a licensed manufacturing chemist, licensed wholesale chemist, pharmaceutical chemist, medical practitioner, dentist, or veterinary surgeon engaged in the lawful practice of his business or profession as such;

(d) the person is a registered nurse acting in accordance with an authorization conferred under section 25A;

(da) the person is a registered nurse administering a narcotic substance in the course of medical treatment on the direction in writing of a medical practitioner;

(db) the person is the parent or guardian of a person who, because of age or mental or physical disability, whether permanent or temporary, is incapable of

caring for himself to whom a narcotic substance is being administered on the direction in writing of a medical practitioner;

(dc) the person is the master of a boat administering a narcotic substance to a passenger or crew member on the boat where the substance is required to be carried on a boat of that class by regulations or by-laws made under the Marine and Safety Authority Act 1997 for the purposes of medical treatment;

(dd) the person is an ambulance officer administering a narcotic substance –

(i) at the direction of a medical practitioner; or

(ii) in accordance with the Field Protocols applying with respect to the administration of scheduled substances as approved by the Director of Ambulance Services from time to time; or

(e) the person is acting in accordance with an authorization conferred by the regulations.

(2) Nothing in subsection (1) applies to or in relation to a raw narcotic or narcotic substance that is a prohibited plant or prohibited substance.

(3) A person shall not –

(a) sell or supply a prohibited plant or prohibited substance to another person; or

(b) traffic in such a plant or substance.

(4) Nothing in subsection (3) applies to or in relation to –

(a) the sale or supply of a prohibited plant to a licensed manufacturing chemist by a person who is the holder of a licence under section 52; or

(b) the sale or supply of a prohibited plant by a licensed manufacturing chemist to another licensed manufacturing chemist.

(5) A person who contravenes subsection (1) or (3) is guilty of a crime and is liable to punishment on indictment under the Criminal Code accordingly.

(6)

(7)

(8) On an indictment under subsection (1), the accused person may be convicted of an offence under section 48 and punished as provided by that section.

(9) On an indictment under subsection (3), the accused person may be convicted of an offence under section 49 or section 55 and punished as provided in the relevant section.

(10) Nothing in this section prohibits the supply of a raw narcotic, narcotic substance, prohibited plant, or prohibited substance by a person who is authorized by or under this Act to be in possession of and to supply that raw narcotic, narcotic substance, prohibited plant,

or prohibited substance, if –

(a) that supply is in the circumstances and subject to the conditions specified in the authorization granted to that person under section 25A;

(b) that supply is in the circumstances and subject to the conditions prescribed in the regulations under which authorization is granted to that person to supply that raw narcotic, narcotic substance, prohibited plant, or prohibited substance; or

(c) that supply is in the ordinary course of business, or the ordinary practice of the profession, of a person who is authorized to supply that raw narcotic, narcotic substance, prohibited plant, or prohibited substance.

48. Possession of narcotic substances, &c.

(1) Subject to subsection (2), a person shall not have a raw narcotic or narcotic substance in his possession, unless –

(a) the person is, or is acting as the employee of and under the direction of, a licensed manufacturing chemist, licensed wholesale chemist, pharmaceutical chemist, medical practitioner, dentist, or veterinary surgeon engaged in the lawful practice of his business or profession as such;

(b) the person is a registered nurse acting in accordance with an authorization conferred under section 25A; or

(c) the person is acting in accordance with an authorization conferred by the regulations.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) Nothing in subsection (1) prohibits –

(a) the keeping or using of a raw narcotic or narcotic substance in a prescribed institution in accordance with the directions of the person in charge of that institution;

(b) the possession by a person of a raw narcotic or narcotic substance supplied by a medical practitioner, dentist, pharmaceutical chemist, or veterinary surgeon to him or for some person who is a member of his family or his household or of whom he has the care, custody, or control;

(ba) the possession by a person of a narcotic substance supplied by a registered nurse, in accordance with an authorization conferred by section 25A, to him or for some person who is a member of his family or his household or of whom he has the care, custody, or control; or

(c) the possession, keeping, or use of a raw narcotic or narcotic substance in

accordance with the regulations made under section 59(1)(i).

(3) In this section, "**prescribed institution**" means –

(a) a public institution; or

(b) any other institution or establishment that is for the time being approved by the Minister, in writing, for the purposes of this section.

49. Prohibition of possession of prohibited plants except under licence

(1) A person shall not have in his possession –

(a) a prohibited plant, whether in its original form or not; or

(b) any part of a prohibited plant –

unless he is, or is acting as the employee and under the direction of –

(c) a licensed manufacturing chemist engaged in the lawful practice of his business as such;

(d) the holder of a licence under section 52 authorizing him to grow or cultivate the plant; or

(e) a person who is engaged, under a contract or arrangement entered into between him and the holder of such a licence, in the transport of such a plant or any part thereof from the place where the plant is grown or cultivated to –

(i) a place where a licensed manufacturing chemist is authorized by his licence to engage in the business of making from the plant substances for therapeutic use; or

(ii) a place where, by or on behalf of such a chemist, the plant is subjected to any treatment or process preparatory to its use in the making of a substance for therapeutic use.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) In proceedings in respect of an offence against this section it is a defence for the person charged to prove that at the relevant time he did not know, and had no means of knowing, that the plant to which the proceedings relate was a prohibited plant or a part of a prohibited plant, as the case may be.

(3) This section does not prohibit a person from having in his possession the seed of an opium poppy.

50. Exceptions as to scientific institutions

Nothing in sections 46, 48, 49, or 55 prohibits the manufacture, possession, or use of a

narcotic substance for scientific purposes in accordance with a licence granted by the Minister under this Act.

51.

52. Growing of certain plants prohibited except under licence

(1) A person shall not, except under and in accordance with a licence granted or deemed to have been granted by the Minister under this Part and in accordance with the conditions and restrictions specified in the licence, grow or cultivate a prohibited plant.

Penalty:

Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) In proceedings in respect of an offence against subsection (1), it is a defence for the person charged to prove that at the relevant time he did not know, and had no means of knowing that the plant to which the proceedings relate was a prohibited plant or part of a prohibited plant, as the case may be.

53. Minister's discretion to grant or refuse licences

The grant or refusal of a licence under this Part lies in the discretion of the Minister.

Division 3 -

54.

Division 4 - Prohibited substances

55. Prohibition of manufacture, &c., of prohibited substances

(1) Notwithstanding any other provision of this Part, a person (whether the holder of a licence under this Part or not) who –

- (a) imports or brings into the State a prohibited substance;
- (b) makes, refines, prepares, sells, or supplies a prohibited substance;
- (c) has in his possession a prohibited substance; or
- (d) uses a prohibited substance –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 2 years, or both.

(2) This section does not apply to or in relation to –

- (a) the importation or bringing into the State of a prohibited substance by or on behalf of an exempted public institution; or
- (b) the making, refining, preparation, possession, or use of a prohibited

substance in an exempted public institution –

for educational, experimental, or research purposes in compliance with the conditions determined by the Minister in relation to the particular institution or in relation to exempted public institutions generally.

(3) In this section, "**exempted public institution**" means a public institution that is declared by the Minister, by order, to be an exempted public institution for the purposes of this section.

Division 5 - General

56. Offences against this Part

(1) A person who –

(a) contravenes or fails to comply with the conditions of any licence issued or authority granted to him under this Part;

(b) within the State aids, abets, counsels, or procures the commission in a place outside the State of an offence punishable under a corresponding law in force in that place, or does any act in furtherance of an act committed outside the State that, if committed in the State, would constitute an offence against this Part; or

(c) for the purpose of obtaining, whether for himself or for another person, the issue, grant, or renewal of any licence or authority under this Part, makes a declaration or statement that is false in any particular, or knowingly utters, produces, or makes use of such a declaration or statement or a document containing such a declaration or statement –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(2) In this section, "**corresponding law**" means a law stated in a certificate purporting to be issued by or on behalf of the Government of –

(a) a British possession (including a territory that is under the Sovereign's protection or that is governed under a trusteeship agreement by the Government of any part of the Sovereign's dominions) outside this State; or

(b) a foreign country (including a protectorate thereof or any territory that is governed under a trusteeship agreement by the Government thereof) –

to be a law providing for the control and regulation in that possession or country of the manufacture, sale, use, export, or import of narcotic substances in accordance with the provisions of –

(c) the International Opium Convention signed at The Hague on 23rd January 1912;

(d) the convention that is referred to as the Geneva Convention in the preamble to the Imperial Act known as the *Dangerous Drugs Act 1925*; or

(e) the Single Convention on Narcotic Drugs, 1961, signed at New York on 30th March 1961.

(3) A statement in such a certificate as is mentioned in subsection (2) as to the effect of a law mentioned therein, or a statement in such a certificate that any facts constitute an offence punishable under such a law, is conclusive.

57. Application of certain provisions of the *Criminal Code*

The provisions of sections 8 and 9 of the *Criminal Code* apply to and in relation to offences against this Part that are punishable summarily as if those offences were crimes within the meaning of that Code.

58. Penalties

(1) A person who is guilty of an offence against this Part for which no specific penalty is prescribed elsewhere in this Part is liable to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or to both.

(2) A person, on conviction for the offence of contravening or failing to comply with the conditions of a licence issued or authority granted under this Part or of contravening or failing to comply with a regulation relating to the keeping of books or the issuing or dispensing of prescriptions for the supply of a substance that is or contains a narcotic substance, shall not be sentenced to imprisonment without the option of a fine or to pay a fine exceeding 10 penalty units if the magistrate or justices dealing with the case is or are satisfied that the offence was committed through inadvertence and was not committed in the course of or in connection with the commission or intended commission of any other offence against this Part.

(3) A term of imprisonment imposed on a person in respect of the non-payment of a fine for an offence against this Part 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.

59. Regulations relating to narcotics and narcotic substances

(1) The Governor may make regulations for controlling the making, refining, preparation, sale, supply, prescription, possession, use, and distribution of narcotic substances or any of them, or of raw narcotics or any of them and, in particular and without prejudice to the generality of the foregoing, for or with respect to –

(a) regulating the granting of licences for the purposes of this Part;

(b) prescribing or regulating the times or stage of growth or development at which a prohibited plant may be harvested, treated, processed, or manufactured into narcotic drugs or other substances by the holders of licences under this Part, and prohibiting the harvesting, treatment, or processing of a prohibited plant or any part thereof except in accordance with such conditions as may be prescribed, and requiring and regulating the clearing, cleansing, or treatment as prescribed of any soil in which a prohibited plant has been so grown and the destruction of any part thereof not required by the holder of such a licence for any purpose of treatment, processing, or manufacture;

- (c) prohibiting the making, refining, or preparation of a narcotic substance except on premises licensed for the purpose by the Minister and subject to any conditions specified in the licence;
 - (d) regulating the importation into, and export from, the State of any narcotic substance or raw narcotic;
 - (e) regulating the issue by medical practitioners, dentists, and veterinary surgeons of prescriptions for the supply of substances that are or contain narcotic substances and the dispensing of those prescriptions and prohibiting the issue of any such prescriptions by other persons;
 - (f) prescribing the persons by whom, the circumstances in which, and the conditions under which, a narcotic substance may be administered to a person;
 - (g) requiring medical practitioners, in such cases or circumstances as may be prescribed, to furnish to such persons or authorities as may be prescribed such information as may be prescribed and as they may have with respect to persons professionally treated by them for the treatment of whom they have prescribed any narcotic substance;
 - (h) requiring persons engaged in the making, refining, preparation, sale, distribution, or supply of narcotic substances or engaged in the growing, cultivation, or harvesting of a prohibited plant to keep such books and records and furnish such information and returns as may be prescribed, and regulating the inspection of any such books or records;
 - (i) authorizing the possession, keeping, or use of raw narcotics or narcotic substances, or both, by such persons or in such places as may be prescribed, and in such cases or circumstances and subject to such conditions as may be prescribed;
 - (j) regulating the storage and safe custody of narcotic substances; and
 - (k) prescribing fees to be paid in respect of any licence issued or authority granted under this Part.
- (2) The regulations made under this section may make provision for or with respect to –
- (a) authorizing pharmaceutical chemists to be in possession of narcotic substances for the purposes of –

 - (i) making, refining, or preparing at their shops in the ordinary course of retail business any preparation, admixture, or extract of such a substance; and
 - (ii) carrying on at their shops the business of selling, or of dispensing or compounding, such a substance;
 - (b) authorizing medical practitioners, pharmaceutical chemists employed in dispensing medicines at any public hospital or other like institution, dentists, and veterinary surgeons to be in possession of narcotic substances and, in the

lawful practice of their professions or businesses as such, to supply narcotic substances, subject to such conditions and restrictions as may be prescribed;

(c) authorizing persons in charge of laboratories for the purposes of research or instruction, and such other persons as the Minister may deem proper, to be in possession of narcotic substances 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 licences or authorities for the purposes of this Part by such person as may be prescribed and on such terms and subject to such conditions (including in the case of a licence the payment of a fee) as that person thinks proper;

(e) the suspension or cancellation of such a licence or authority; and

(f) the institution, hearing, and determination of appeals against any determination with respect to such a licence or authority made by the person by whom it is issued, granted, or revoked.

(3) The regulations made under this section shall not provide for the issue of a general licence to make, refine, or prepare narcotic substances, but a licence issued under those regulations shall be limited to the making, refining, or preparation of any particular substance or substances specified in the licence.

(4) Subsection (3) does not prevent the issue to any one person, pursuant to the regulations, of several licences to make, refine, or prepare narcotic substances.

(5) The regulations, or any of them, made under this section may be made so as to apply

–

(a) to all narcotic substances, to any such substance specified in the regulations, or to all such substances other than those 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.

(6) The regulations made under this section or under any other provision of this Act may provide that any specified offence against this Part or those regulations shall be regarded as –

(a) professional misconduct within the meaning and for the purposes of Part 4 of the *Medical Practitioners Registration Act 1996*;

(b) professional misconduct within the meaning of and for the purposes of Part 4 of the *Dental Practitioners Registration Act 2001*;

(c) professional misconduct within the meaning and for the purposes of the *Pharmacists Registration Act 2001*;

(d) misconduct as a veterinary surgeon within the meaning and for the purposes of the *Veterinary Surgeons Act 1987*; and

(e) infamous or improper conduct, or misconduct, within the meaning and for the purposes of any other prescribed law relating to the carrying on of a particular profession, occupation, or calling.

(7) The regulations under this section may prescribe the substances to which the regulations relate either specifically or by reference to any international convention referred to in the regulations or to any list of substances issued by, or by an agency of, the United Nations.

PART VI - Miscellaneous

Division 1 - Analysis and examination of scheduled substances and scheduled plants

60. Power to demand, select, and take samples

(1) On payment or tender to a person (in this section referred to as "the seller") engaged in the business of selling or manufacturing a scheduled substance or to the agent or servant of the seller, or to a person in charge of such a substance, either in transit or otherwise, of the current market value thereof or at the rate of payment prescribed, an inspector may demand and select and take or obtain a sample of that substance as required by him for the purposes of this Act.

(2) The inspector may require the seller, or his agent or servant, or the person in charge of the substance, either in transit or otherwise, to show, and permit the inspection of, any package or container in which the substance is kept, and may take or draw, or require the seller or his agent or servant, or the person so in charge of the substance to take or draw, from the package or container the sample demanded.

(3) Where a substance is kept for retail sale in a closed package, a person shall not be required by an inspector pursuant to this section to sell less than the whole of the contents of the package.

(4) The procuring by an inspector of a sample of a substance pursuant to this section and the payment or tender of the current market value thereof or at the rate of payment prescribed, shall, for the purposes of this Act, be deemed to be a sale by the seller, or by his agent or servant or the person in charge of the substance, as the case may be, to the inspector of the substance contained in the sample.

(5) If rates have been prescribed for the payment for samples of substances, it is not necessary for an inspector to tender a higher price for a sample.

(6) A person may, on payment of the prescribed fee together with the cost of the sample, require an inspector to purchase a sample of a substance and submit the sample for analysis or examination.

61. Analysis, &c., of substance or plant

(1) Where a substance is procured by an inspector, as provided by [section 60](#), for the purposes of analysis or examination the inspector shall –

(a) forthwith inform the person from whom he procured the substance of the purpose for which he procured the substance;

(b) except where otherwise provided, forthwith divide the substance into 3 portions of equal, or approximately equal, quantity and securely close or fasten up each portion in a separate container or package, as may be appropriate to its nature, and seal each one;

(c) clearly and legibly mark each vessel, container, or package with some distinctive mark of identification;

(d) deliver, or, if delivery is not taken, tender, to the person from whom he procured the substance one portion so marked;

(e) retain one portion;

(f) deliver or transmit to an analyst the third portion as soon as is reasonably practicable; and

(g) within 28 days after procuring the substance, transmit a copy of the analyst's report of the analysis or examination of his portion to any person against whom the inspector intends to take proceedings in respect of the substance analysed or examined.

(2) Where a substance is sold in a container or package the inspector who procures a sample thereof may procure 3 of the packages or containers each purporting to contain the same kind of substance and bearing the same brand or label, and in that case each package or container so procured shall be deemed to be one such portion as is mentioned in subsection (1), and no division thereof is required.

(3) The regulations may prescribe the procedure to be followed in respect of any particular kind of substance specified in the regulations, and any such procedure may be in addition to or in substitution for the procedure provided in subsections (1) and (2) to such extent as may be prescribed.

(4) Subject to subsection (5), in proceedings under this Act in respect of a substance a sample of which has been submitted to an analyst as provided in this section, the court hearing the proceedings shall not receive the certificate of the analyst as evidence as provided by section 78 unless it is satisfied that the provisions of this section have been complied with.

(5) In proceedings under this Act in respect of a substance bought in the usual course of business by a person other than an inspector, if it is proved that the sample of the substance submitted for analysis or examination was in the same state when received by the analyst as when so bought, the certificate of the analyst thereon may be received as evidence without proof of compliance with the preceding provisions of this section.

62. Forwarding of sample for analysis or examination

(1) Where the owner or buyer of a scheduled substance wishes to have the substance analysed or examined or a scheduled substance, prohibited substance, or prohibited plant is procured or seized under this Act, that substance or plant may be delivered personally or be forwarded by post or by any other convenient means to an analyst for analysis or examination.

(1A) Where a substance or plant is forwarded as referred to in subsection (1), a certificate purporting to be given by the person who forwarded the substance or plant to the effect that, at a specified time on a specified date and at a specified place, he forwarded the substance or plant by a specified means to an analyst in a sealed container for analysis or examination is admissible in evidence in proceedings for an offence under this Act as to those matters, unless the party against whom the certificate is tendered has given notice in writing to the other party, at least 4 days before the hearing of the proceedings, that he requires the person to be called as a witness in the proceedings.

(1B) Where an analyst receives a sealed container containing a substance or plant for analysis or examination, a certificate purporting to be given by him to the effect that, at a specified time on a specified date and at a specified place, he received the container with the seal unbroken is admissible in evidence as to those matters in proceedings for an offence under this Act and of the fact that the substance or plant was in the same state as it was in when it was forwarded to him for analysis or examination, unless the party against whom the certificate is tendered has given notice in writing to the other party, at least 4 days before the hearing of the proceedings, that he requires the analyst to be called as a witness in the proceedings.

(2) A charge for postage or carriage shall be deemed to be one of the expenses of the analysis.

63. Right of owner or buyer to have substance or plant analysed, &c.

The owner or buyer of a scheduled substance, on payment of a fee according to a scale to be prescribed, is entitled to have the substance analysed and to receive from the analyst a certificate of the result of his analysis or examination.

64. Where method of analysis or examination prescribed

Where a method of analysis or examination has been prescribed for the analysis or examination of a particular kind of substance or plant, an analyst, either for the complainant or for the defendant in proceedings under this Act, shall, in his certificate of analysis or examination, declare that he has followed the prescribed method in his analysis or examination; but evidence is admissible on the part of the defence of an analysis or examination made by a method other than the prescribed method and to show that the prescribed method is not correct.

65. Costs of analysis or examination

(1) Where the prosecutor, in proceedings under this Act, has caused the substance or plant to which the proceedings relate to be analysed or examined by an analyst, the court may, in case of a conviction, assess the reasonable expense of and attending the analysis or examination and award it against the defendant as part of the costs of the prosecutor.

(2) In addition to the costs (if any) under subsection (1), the court may assess and award against the defendant –

(a) as part of the costs of the prosecutor, the expenses incurred by the prosecutor while engaged in travelling to and attending the trial, including the proportionate part of his salary while so engaged; and

(b) where the Government Analyst or a member of his staff has given evidence at the trial, such costs in respect of his attendance as the court may determine.

66. Copy of result of analysis or examination to be supplied on demand in certain cases

A copy of the certificate showing the result of an analysis or examination of a substance made at the request of the owner or buyer of the substance or of an inspector shall, on demand, be supplied by the analyst to the person from whom the substance was taken or obtained, and to the manufacturer or his agent in the State, on payment of a fee to be prescribed.

67. Copy of inspector's certificate to be supplied on demand in certain cases

A copy of a certificate of an inspector under section 25(2) shall, on demand, be supplied by the inspector to the person whose stocks of substances or plants were inspected by the inspector or to that person's agent in the State.

68. Additional copies of certificate

On payment of the prescribed fee –

(a) an analyst may supply additional copies of the certificate referred to in section 66 to a person to whom that section relates; and

(b) an inspector may supply additional copies of the certificate referred to in section 67 to a person to whom that section relates.

69. Analysis or examination not to be referred to for trade purposes

A person shall not, for trade purposes or advertisement, use an analysis or examination made for the purposes of this Part.

Penalty:

Fine not exceeding 5 penalty units.

Division 2 - Legal proceedings and offences

69A. Time for instituting prosecutions

(1) A prosecution for an offence against this Act (not being a prosecution for a contravention of section 47(1) or (3)) may be instituted at any time within 2 years after the commission of the offence.

(2) Notwithstanding anything in subsection (1), where a prosecution for an offence to which this section applies is instituted more than 6 months after the commission of the offence, the court may dismiss the charge if it considers that in the circumstances of the case it would be unjust, having regard to the period of time which has elapsed since the commission of the offence, to proceed with the prosecution.

70. Return day of summons

On a complaint under this Act concerning a substance or plant, the summons shall not be

made returnable less than 10 days after the day on which it is served.

71. Copy of analyst's certificate to be served on defendant

Where proceedings are taken on summons under this Act for an offence concerning a substance or a plant that has been analysed or examined by, or under the supervision of, an analyst –

(a) a document purporting to be a certificate of the result of the analysis or examination is not admissible in evidence in those proceedings unless a copy of the document has been served on the defendant not less than 7 days before the hearing of those proceedings; and

(b) section 177A of the Evidence Act 2001 does not apply in relation to those proceedings.

72. Source of information of witness need not be disclosed

A witness on behalf of the prosecution in proceedings under this Act is not obliged to disclose –

(a) the fact that he received any information;

(b) the nature of any information received by him; or

(c) the name of the person who gave information.

73. Reports to inspector need not be disclosed

An inspector appearing as a witness in proceedings under this Act is not obliged to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

74. Burden of proof

In proceedings under this Act concerning a substance or plant, the burden of proving that the substance or plant was not sold for consumption or use is on the defendant.

75. Agent or servant liable in addition to principal

(1) Subject to subsection (2), in proceedings under this Act for an offence in relation to the sale or supply of a substance or plant, it is no defence that the defendant is only the agent or servant of the owner of, or person dealing in, that substance or plant but the agent or servant and the owner or person dealing in the substance or plant are both liable.

(2) A servant is not liable if he proves that the offence was committed in a store, shop, stall, or other similar place in which business was, at the time of the commission of the offence, conducted under the personal superintendence of the owner of the business or some manager or other person representing him.

76. Right of agent or servant to recover from principal

(1) If the defendant in proceedings under this Act for an offence in relation to the sale or

supply of a substance or plant, being the agent or servant of the owner or person dealing in the substance or plant, proves that he sold or supplied the substance or plant without knowledge that any provision of this Act with respect to the substance or plant or any container or package in which it was contained had been contravened or had not been complied with, he may, whether his principal or employer has or has not been convicted and fined, recover in a court of competent jurisdiction from his principal or employer the amount of any penalty imposed on the agent or servant in the proceedings, together with the costs paid or payable by him on his conviction and those paid or payable by him in and about his defence to the proceedings.

(2) Where an agent or servant has been convicted under this Act, the court before which he is convicted may suspend the operation of the conviction for a period not exceeding 3 months, to enable the agent or servant to recover from his principal or employer as provided in [subsection \(1\)](#).

77. Defence available to defendant where some other person is responsible for commission of offence

(1) A person against whom proceedings are brought in respect of an offence against this Act is entitled to have any person (in this section referred to as "the third party") to whose act or default he alleges that the commission of the offence was due brought before the court in those proceedings, and if, after the offence is proved, the original defendant proves that the commission of the offence was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he used all due diligence to secure compliance with the provisions of this Act in respect of the contravention in relation to which the proceedings are brought, he shall be acquitted of the offence.

(2) To avail himself of the provisions of [subsection \(1\)](#) the defendant may, on 3 clear days' notice to the prosecutor, apply to a justice for a summons to the third party and –

(a) the justice shall make the return day of that summons conform to the principle of [section 70](#) and amend the return day of the summons on the complaint accordingly; and

(b) the justice's summons to the third party shall recite the complaint and the defendant's allegation on which it is issued.

(3) Where a defendant avails himself of the provisions of [subsection \(1\)](#) –

(a) the prosecutor and the third party are entitled to cross-examine the defendant, if he gives evidence, and to cross-examine any witness called by him in support of his evidence, and to call rebutting evidence; and

(b) the court before which the proceedings are brought may make such order as the court thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(4) Where it appears to an inspector that an offence under this Act has been committed in respect of which proceedings might be taken against some person and the inspector is reasonably satisfied that the offence was due to an act or default of some other person and that the first-mentioned person could have that other person brought before a court in

accordance with subsection (1), the inspector may cause proceedings to be brought against that other person without first causing proceedings to be brought against the first-mentioned person, and in any proceedings so brought that other person may be charged with and, on proof that the commission of the offence was due to his act or default, may be convicted of, the offence with which the first-mentioned person might have been charged.

78. Evidentiary provisions

(1) In proceedings in respect of an offence against this Act –

(a) the production of a document purporting to be an analyst's or inspector's certificate prepared pursuant to section 25 is evidence of the facts therein stated if tendered by –

(i) the prosecutor; or

(ii) the defendant if he has, not less than 7 days before the hearing, delivered a copy thereof to the prosecutor –

unless the party against whom the document is tendered has given notice in writing to the other party, at least 4 days before the hearing, that he requires the analyst, a person who, under the supervision of the analyst, was involved with the analysis or the inspector to be called as a witness; and

(b) if the defendant requires the portion of a substance retained as provided by section 61(1)(e) to be produced at the hearing, he shall give the prosecutor not less than 3 days' notice in writing of his requirement; and

(c) section 177A of the Evidence Act 2001 does not apply.

(2) In proceedings in respect of an offence against this Act, when it is necessary or proper to prove in respect of a particular substance that it conforms to any of the following descriptions, namely:

(a) that it is a poison or poisonous;

(b) that it consists of or contains poison;

(c) that it is a restricted substance;

(d) that it is a narcotic substance –

then in every such case –

(e) evidence that a substance commonly sold under the same name or description as that particular substance conforms to any of the descriptions contained in paragraph (a), paragraph (b), paragraph (c), or paragraph (d) is evidence that that particular substance also conforms to the same description accordingly;

(f) evidence that a particular substance bears an inscription required by the regulations in respect of any substance or kind of substances is evidence that

that particular substance is a substance, or belongs to the kind of substances, in respect of which that inscription is so required; and

(g) evidence that the container or package in which a particular substance is contained is labelled as required, or bears an inscription required, by the regulations in respect of containers or packages containing any substance or kind of substances is evidence that that particular substance is a substance, or belongs to a kind of substances, the containers or packages containing which are so required to be labelled or to bear that inscription.

(3) In proceedings against a person in respect of an offence against Part V it is not necessary to negative by evidence any licence, authority, or other matter of exception or defence, and the burden of proving any such matters lies on the person seeking to avail himself of it.

(4) In any proceedings for an offence under this Act, a printed document which purports to set out a standard or specification of a prescribed authority as defined in section 92A and which purports to have been published or issued by or on behalf of the authority is admissible in evidence and is evidence of the standard or specification.

79. Persons deemed to have sold certain substances

(1) Where a scheduled substance is sold in an unopened container or package to a police officer or to an inspector and in respect of the sale thereof there is a contravention of or failure to comply with any provision of this Act, each of the persons referred to in paragraphs (a) and (b) is, in addition to the person who actually sold the container or package to the police officer or inspector, liable in respect of that contravention or failure, namely:

(a) if the container or package has a label on or attached to it, any person who appears from that label to have manufactured or prepared the substance, or to have imported it into the State, or to have enclosed it or caused it to be enclosed in that container or package, or to have been the wholesale supplier thereof;

(b) if the container or package has a label on or attached to it but the label does not disclose any of the particulars referred to in paragraph (a) or if the container or package has no label on or attached to it, any person who has previously sold the unopened container or package.

(2) A person to whom the provisions of subsection (1) apply is deemed to have sold the unopened container or package to the police officer or inspector as on the day when, and at the place where, the police officer or inspector purchased it, and that person is liable to the same penalty as if he had actually sold the container or package to the police officer or inspector on that day and at that place.

(3) It is a defence to a charge under this section if the person charged shows –

(a) that the contravention or non-compliance is due to the act or default of some subsequent seller; or

(b) where the container or package has a label on or attached to it, that he did not in fact affix or attach the label or cause it to be affixed or attached or

enclose the substance in or cause it to be enclosed in the container or package.

(4) Nothing in this section affects the liability of a person selling an unopened package to a police officer or to an inspector with respect to any contravention or non-compliance due to his default or to other causes within his control; and the conviction of a person under the provisions of this section does not relieve the person selling the unopened container or package or any other person from liability with respect to any such contravention or non-compliance.

(5) Without affecting the generality of the application of this section or any other provision of this Act to firms or the members of firms, where a firm appears from a label to have imported or manufactured a scheduled substance or to have been the wholesale supplier thereof or to have enclosed the substance in a container or package –

(a) proceedings under this section may be taken against, and penalties imposed on and recovered from, any member or members of the firm; and

(b) this section has effect, and shall be read, as if the name of that member or the names of those members had appeared on the label.

(6) In this section, "**wholesale supplier**" means a person who sells or supplies a scheduled substance to another person for the purposes of resale by that other person.

80. Selling certain substances by means of automatic machines prohibited

A person shall not –

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

(i) install an automatic machine for the sale or supply of a scheduled substance; or

(ii) sell or supply such a substance by means of an automatic machine;

(b) permit or suffer an automatic machine designed for, or capable of being used for, the sale of such a substance to be installed on his premises or on premises under his control;

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

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

Penalty:

Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months, together with a daily fine not exceeding 0.2 penalty unit in the case of a continuing offence.

81. Medicines, &c., for internal use not to be sold in certain containers

(1) A person shall not sell a drug or medicine that is for internal use, or any food, drink, or condiment, in a container or package –

(a) of like description to that prescribed in the regulations for a container or package in which a substance that is or contains a scheduled substance (being a substance intended for external use) may be sold; or

(b) of such a description as not to be readily distinguishable by sight and touch, or by either sight or touch, from a container or package in which such a substance intended for external use may be sold.

Penalty:

Fine not exceeding 10 penalty units.

(2) Nothing in this section affects any other requirement of this Act relating to the containers or packages in which drugs or medicines that are or that contain scheduled substances may be sold.

82. Obstruction, &c., of officers

(1) A person who –

(a) intentionally delays or obstructs an inspector or a police officer in the exercise or proposed exercise of his powers under section 90, 90A, 90B, or 90E; or

(b) without reasonable excuse, fails to produce, or conceals, any substance, plant, or document, or any stocks of a substance or plant, that he is required under section 90 to produce –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

(2) If the admission of an inspector or a police officer to any premises which he seeks to enter in accordance with section 90 or 90E is refused, or is delayed or obstructed for such time that it may reasonably be inferred that the delay or obstruction was intentional, the occupier of the premises, and any other person who refuses, delays, or obstructs the admission of the inspector or police officer, are each guilty of an offence and are liable on summary conviction to a fine not exceeding 50 penalty units.

(3) In proceedings in respect of an offence against this section in relation to the delaying or obstructing of a police officer or an inspector, if it is shown that the entrance of a police officer or of an inspector into any premises or place was prevented or delayed by the existence of any barrier or obstruction in or on the premises or place, it shall be presumed, unless the contrary is proved, that the barrier or obstruction was intended to prevent or delay the entry into the premises or place of the police officer or inspector.

83. Hawking, &c., of scheduled substances prohibited

(1) A person shall not –

- (a) sell or supply a scheduled substance, or distribute a scheduled substance free or as a sample, in any street or from place to place;
- (b) hawk or peddle a scheduled substance; or
- (c) whether by appointment or otherwise, go from place to place selling, supplying, or distributing (whether free or as a sample) a scheduled substance.

Penalty:

Fine not exceeding 10 penalty units.

(2) Subsection (1) does not apply to any wholesale dealing or in relation to the free distribution of clinical samples of a scheduled substance (other than a narcotic substance) to medical practitioners, dentists, or veterinary surgeons by persons engaged in the manufacture of, or 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.

(3) In this section, "street" has the same meaning as it has in the Police Offences Act 1935.

83A. Possession of pipe, &c.

(1) A person who has in his possession any pipe, syringe, or other utensil, or any other appliance or thing, for use or designed to be used in connection with the preparation, smoking, inhalation, administration, or taking of a raw narcotic, narcotic substance, prohibited plant, or prohibited substance is guilty of an offence and is liable on summary conviction to a fine not exceeding 20 penalty units.

(2) Subsection (1) does not prohibit anything authorized by a licence granted under this Act, or otherwise authorized by or under this Act.

83B. Causing, &c., use of premises for certain purposes

An owner or occupier of premises who knowingly causes, permits, or suffers those premises to be used for or in connection with the unlawful growing, manufacture, preparation, sale, distribution, trafficking, use, or administration of a raw narcotic, narcotic substance, prohibited plant, or prohibited substance is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 2 years, or both.

84. Forfeiture of substances, &c., in certain cases

(1) Where an inspector or police officer, in accordance with section 90, 90B or under a warrant issued under the Search Warrants Act 1997, seizes –

- (a) a substance, being a raw narcotic, narcotic substance, prohibited substance, or substance to which section 36 applies; or

(b) a prohibited plant or part of such a plant, other than the seed of an opium poppy –

that substance, plant, or part of a plant is, by virtue of this subsection, forfeited to the Crown and shall be disposed of as the Minister directs.

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86. Offences by bodies corporate

Where a body corporate is convicted of an offence against this Act, each director or member of the governing authority of the body corporate and each officer concerned in the management of the body corporate is guilty of the like offence unless he proves that he used all due diligence to prevent the commission of the offence or that the offence was committed without his knowledge or consent or contrary to his orders or directions.

Division 2A -

86A.

86B.

86C.

86D.*Division 3 - General***87. Application of certain Acts to orders made under this Act**

The provisions of –

- (a) section 47 of the *Acts Interpretation Act 1931*; and
- (b) the *Subordinate Legislation Committee Act 1969* –

apply to and in relation to any order made by the Minister under this Act as if the order were a regulation.

88. Calculation of percentages

For the purposes of this Act and of the Poisons List, percentages in the case of liquid preparations shall (unless other provision in that respect is made by the regulations) be calculated on the basis that a preparation containing one per cent of a 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 100 millilitres of the preparation, and so on in proportion for any greater or lesser percentage.

89. Annual list of holders of licences under section 27

(1) The Minister shall, in the month of January in each year, cause to be published in the *Gazette* a correct list of the names of all persons to whom licences under section 27 have been granted, and that list shall set out those names in the alphabetical order of the surnames appearing therein and shall specify the respective place of residence or business of each person whose name appears therein.

(2) The production of the *Gazette* containing the list referred to in subsection (1) is evidence that the persons whose names appear therein have been granted licences under section 27.

90. Powers of inspectors with respect to licensed premises, &c.

(1) For the purpose of ascertaining whether there is or has been a contravention of or a failure to comply with this Act, an inspector may, at any reasonable time, without a warrant, enter premises –

- (a) occupied by a person who is the holder of a licence under this Act authorizing him to manufacture or distribute a scheduled substance;
- (b) where –

(i) goods are sold on those premises; and

(ii) the inspector believes, on reasonable grounds, that those premises are used for or in connection with the sale or supply of a scheduled substance;

(c) occupied by a person who is the holder of a licence under this Act authorizing him to have in his possession a scheduled substance or who is otherwise authorized by this Act to have such a substance in his possession;

(d) occupied by a person who is the holder of a licence under this Act authorizing him to grow or cultivate a prohibited plant; or

(e) in which the making, refining, preparation, possession, or use of a prohibited substance is authorized by this Act.

(2) An inspector who has entered premises under the power conferred on him by subsection (1) may do all or any of the following things:

(a) examine any room in, or any part of, the premises and any articles within any such room or part;

(b) inspect, check, and make an inventory of any substances or plants kept in any such room or part which he believes on reasonable grounds to be scheduled substances or prohibited plants;

(c) require the production of, and inspect and make copies of, any documents relating to dealings with any scheduled substances or prohibited plants kept or that he finds on the premises;

(d) require the production of any scheduled substances or prohibited plants kept on the premises;

(e) inspect, check, and make an inventory of any substances or plants kept on the premises which he believes on reasonable grounds to be scheduled substances or prohibited plants;

(f) on payment or tender of a reasonable price, demand, select, and obtain any sample of any scheduled substance which is on the premises;

(g) seize any substance, plant, or document kept or that he finds on the premises, being a substance, plant, or document in relation to which he believes on reasonable grounds there has been a contravention of, or failure to comply with, this Act;

(h) detain or remove to some other place any substance, plant, or document so seized.

(3) An inspector may exercise the powers conferred on him by subsections (1) and (2) with or without assistance.

90A. Powers of police officers executing search warrants

(1) A police officer executing a warrant issued under the *Search Warrants Act 1997* in relation to premises may –

- (a) arrest any person on the premises whom the police officer believes on reasonable grounds to be committing or to have committed an offence under this Act; and
- (b) search any person found on the premises and detain any such person for that purpose.

(2) For the purposes of enabling the execution of a warrant referred to in subsection (1), a police officer may use such animals or devices and be accompanied by such assistants as the police officer considers necessary, and every such assistant has, while in the company of the police officer named in the warrant, the same powers to execute the warrant as the police officer.

90B. Seizure of certain substances found in vehicles, &c.

(1) Where a police officer believes on reasonable grounds that there is –

- (a) in the possession of any person in a public place;
- (b) on or in any vehicle in a public place;
- (c) on any animal in a public place;
- (d) on or in any boat, whether underway or not; or
- (e) on or in any aircraft –

any raw narcotic, narcotic substance, prohibited substance, section 36 substance, or prohibited plant in relation to which an offence under this Act is being or has been committed, he may, without warrant and with such assistance as he considers necessary –

- (f) search the person and detain him for the purpose of carrying out the search;
- (g) search the vehicle, animal, boat, or aircraft;
- (h) seize or seize and remove the vehicle, animal, boat, or aircraft; and
- (i) seize or seize and remove –
 - (i) any substance found in or on the person, vehicle, animal, boat, or aircraft which the inspector or police officer believes is or contains a raw narcotic, narcotic substance, prohibited substance, section 36 substance, or prohibited plant; or
 - (ii) any money or valuable thing found in or on the person, animal, vehicle, boat, or aircraft –

in relation to which the police officer believes an offence under this Act is being or has been committed.

(2) Where, pursuant to subsection (1), a police officer searches or is empowered to search a person, the police officer may arrest the person without warrant if the police officer believes on reasonable grounds that the person is committing or has committed an offence under this Act in relation to a raw narcotic, a narcotic substance, a prohibited substance, a section 36 substance, or a prohibited plant.

(3) In this section, a reference to a search of a person includes a reference to any clothing worn by the person and any article that may be in his possession.

(4) In this section, "**section 36 substance**" means a substance to which section 36 applies.

90C. Personal searches

(1) Where, pursuant to section 90A or 90B, an inspector or a police officer detains a person for the purpose of search, the following provisions apply:

(a) if a strip search is to be carried out on a female, that search shall be carried out by a female police officer;

(b) if a strip search is to be carried out on a male, that search shall be carried out by a male police officer;

(c) if the inspector or police officer suspects on reasonable grounds that a raw narcotic, narcotic substance, prohibited substance, section 36 substance, or prohibited plant may be present in the cavities of that person's body and wishes to determine the presence or absence of the narcotic, substance, or plant in those cavities, he shall cause that person to be brought before a magistrate;

(d) on a person being brought before a magistrate in accordance with paragraph (c), the magistrate shall either –

(i) make an order in writing that the cavities of that person's body which are specified in that order shall be searched by a specified medical practitioner; or

(ii) refuse to make such an order;

(e) if the search involves the application of force to the person – the inspector or police officer shall, within 7 days after effecting the search, deliver to the Secretary or, as the case may be, to the Commissioner of Police a report in writing giving full particulars of the search, including particulars of the circumstances which gave rise to the application of force.

(2) For the purposes of subsection (1) –

(a) "**cavities of a person's body**" means the vagina and rectum of that person;

(b) "**strip search**" means a search, other than a cavity search ordered by a magistrate under subsection (1)(d)(i), in which the person to be searched is required to remove most or all of his clothing.

(3) An order under subsection (1)(d)(i) is sufficient authority for the medical practitioner specified in the order, and any person working in the medical or nursing profession acting in good faith in aid of, and under the direction of, that medical practitioner, to carry out a search of the cavities of the body of the person concerned which are specified in that order.

(4) If a person in respect of whom an order has been made under subsection (1)(d)(i) requests that the search authorized by that order be not carried out unless another medical practitioner, of the same sex as that person, is present, the search shall not be carried out unless another medical practitioner of the same sex as that person is present unless the circumstances are such that it is not reasonably practicable to arrange for the presence of another medical practitioner of the same sex as that person at the search.

(5) Notwithstanding subsection (3), a search authorized by an order under subsection (1)(d)(i) shall not be carried out until the person in respect of whom the search is to be carried out has been informed of the request that he may make pursuant to subsection (4).

(6) If a person in respect of whom an order has been made under subsection (1)(d)(i) refuses or fails to submit himself to the search authorized by that order, or wilfully obstructs the carrying out of the search, the medical practitioner authorized to carry out the search, and any person working in the medical or nursing profession acting in good faith in aid of, and under the direction of, that medical practitioner, may use such force as is reasonably necessary for the purpose of enabling the search to be carried out.

(7) In this section, "**section 36 substance**" means a substance to which section 36 applies.

90D. Power of police officer to require person to provide certain particulars

(1) Where a police officer seizes a substance, plant, or other article under section 90, 90B or under a warrant issued under the *Search Warrants Act 1997*, he may require the person from whom the substance, plant, or article was seized to state –

(a) his name and the address of his place of residence or of the place where he proposes next to reside; and

(b) the place at which, and the person from whom, the first-mentioned person obtained the substance, plant, or article.

(2) Any person who –

(a) fails to comply with a requirement made to him under subsection (1) with respect to the particulars referred to in paragraph (a) of that subsection;

(b) without reasonable excuse, fails to comply with a requirement made to him under subsection (1) with respect to the particulars referred to in paragraph (b) of that subsection when it is within his power so to comply; or

(c) in response to a requirement made to him under subsection (1), gives information which to his knowledge is false or misleading –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(3) Where, pursuant to section 90B or under a warrant issued under the Search Warrants Act 1997, a police officer searches or is empowered to search a person, the police officer may arrest the person without warrant if –

- (a) the person fails to comply with a requirement made to him under subsection (1); or
- (b) in response to such a requirement, the person gives information that the police officer believes on reasonable grounds to be false or misleading.

90E. Power of police officer to pursue suspected person on to private premises

(1) Where –

(a) a person whom a police officer believes on reasonable grounds to be committing or to have committed an offence under this Act in relation to a raw narcotic, a narcotic substance, a prohibited substance, a section 36 substance, or a prohibited plant –

- (i) flees from the presence of the police officer while the police officer is endeavouring to arrest him or to exercise in respect of him any other power conferred by this Act on a police officer; and
- (ii) after fleeing from that presence, enters premises that are not a public place; and

(b) the police officer, immediately after the person flees from his presence, pursues the person and the pursuit continues without interruption –

the police officer may, without warrant, enter the premises notwithstanding that they are not a public place and may for the purpose of effecting entry to the premises use such force (but no more) as may be reasonably necessary.

(2) In this section, "**premises**" includes a dwelling-house, a residential flat, and any other place used as a residence, whether temporarily or permanently.

(3) In this section, "**section 36 substance**" means a substance to which section 36 applies.

91. Protection from liability

No act, matter, or thing done or omitted to be done in good faith by the Minister, or by the Secretary, or by any police officer or inspector, in the administration or intended administration of this Act, or in the exercise or performance or intended exercise or performance of any of his or its powers, functions, or duties under this Act, subjects the Minister, or the Secretary, or the police officer or inspector, to any liability (whether civil or criminal) in respect of that act, matter, or thing.

92. Revocation or suspension of rights

(1) Notwithstanding any other provision of this Act but subject to this section, the Minister may, by notice in writing to a person, suspend or revoke any right conferred on

that person by or under this Act –

(a) to make, refine, prepare, prescribe, sell, supply, or have in his possession a scheduled substance, prohibited substance, or raw narcotic; or

(b) to grow or cultivate, or use or have in his possession, a prohibited plant –

and may, at any time, by notice in writing to that person, remove the suspension or restore that right.

(2) A notice under subsection (1) shall be served on the person to whom it is directed –

(a) personally;

(b) by sending the notice or a copy of the notice to that person by post at his last-known place of residence, business, or employment; or

(c) in the case of a body corporate, by sending the notice or a copy of the notice by post to the registered office (if any) of the body corporate or by serving the notice personally on the manager, secretary, or other executive officer of the body corporate.

(3) A suspension under subsection (1) has effect for such period (not exceeding 21 days) as the Minister determines and specifies in the notice of suspension, but that period may be extended for such further period as may be ordered by a magistrate on application made to, and heard and determined by, him as prescribed.

(4) A person who is aggrieved by the suspension or revocation by the Minister pursuant to subsection (1) of such a right as is referred to in that subsection may apply to the Magistrates Court (Administrative Appeals Division) for a review of the suspension or revocation.

(4A) A person who is aggrieved by an order by a magistrate under subsection (3) extending the period of such a suspension may appeal to the Supreme Court which has jurisdiction to hear and determine the appeal.

(5) An appeal under subsection (4A) is to be brought within 14 days of the date of the making of the order of the magistrate and, subject to this subsection, shall be instituted, heard and determined in accordance with the Rules of Court relating to appeals from inferior courts (other than licensing courts) as nearly as possible as if the magistrate were an inferior court and the order of the magistrate were a judgment of such a court.

(6) The Minister shall not, pursuant to this section, suspend or revoke a right referred to in subsection (1) unless, after giving the person on whom the right is conferred an opportunity to be heard and having regard to the evidence before him, he is satisfied that –

(a) the person, in relation to that right, is or has been guilty of conduct which –

(i) is an abuse of that right or a contravention of or failure to comply with a provision of this Act; or

(ii) shows him to be unfit to enjoy that right; or

(b) in the interests of the person's health or welfare, it is desirable to suspend or revoke the right.

(7) In this section, a reference to a right conferred on a person by or under this Act is a reference to –

(a) a right arising by virtue of a licence, permit, authorisation or authority issued, conferred or granted by or under this Act conferring on the holder of the licence, permit, authorisation or authority the right to make, refine, prepare, prescribe, sell, supply, or have in his possession or use a substance or plant of a kind referred to in subsection (1); or

(b) a right, privilege, or freedom arising by virtue of an exception or exemption provided for by or under this Act to do any of the things referred to in paragraph (a).

92A. Adoption of standards by reference

(1) The regulations may adopt, either wholly or in part, and either specifically or by reference and with or without modification, a standard or specification of a prescribed authority, being a standard or specification specified in the regulations and dealing with a matter to which the regulations relate, whether the standard or specification is published or issued before or after the commencement of section 45 of the *Poisons Amendment Act 1984*.

(2) In subsection (1), "**prescribed authority**" means –

(a) the Standards Association of Australia;

(b) the British Standards Institution; and

(c) such other body as may be specified in the regulations for the purposes of this section.

(3) A reference in subsection (1) to a standard or specification includes a reference to an amendment of that standard or specification, whether the amendment is published or issued before or after the commencement of section 45 of the *Poisons Amendment Act 1984*.

(4) In subsection (3), "**amendment**" means –

(a) the omission of matter;

(b) the insertion of additional matter; and

(c) the omission of matter and the substitution of other matter.

93. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) In addition to the regulations authorized to be made by any other provision of this Act, the Governor may make regulations for or with respect to –

(a) the manufacture, possession, sale, supply, storage, and safe custody of hazardous poisons and domestic poisons, including the specifications of receptacles used for the storage thereof, and the words or warning notices to be painted on, or affixed to, those receptacles, and the manner of keeping or storing substances in those receptacles and prohibiting the keeping or storage in those receptacles of any substances specified in the regulations;

(b) the kind or description of containers and packages in which scheduled substances may be sold or supplied and the size, shape, colour, and materials thereof, and the manner of sealing any such containers and packages and prohibiting the use of any such containers and packages for other substances;

(c) the marking and labelling of containers and packages in which scheduled substances or any prescribed classes or kinds of those substances, are cased, covered, enclosed, contained, or packed and the particulars (including antidotes) to be shown in labels attached to those containers and packages or in or on those containers and packages themselves;

(ca) prohibiting the advertising of potent substances and restricted substances, except in specified publications or a specified class of publications, or in specified circumstances, or in accordance with or subject to specified conditions or restrictions;

(d) the regulation, control, and restriction of the contents of labels attached to or inserted in containers and packages containing a scheduled substance and of advertisements relating to such a substance and the prohibition of the use in any such labels or advertisements of claims, statements, words, and devices indicating or suggesting that the substance to which they relate may be used, or is effective, for a particular purpose;

(e) the colouring of, or of prescribed classes or kinds of, scheduled substances;

(f) the granting of permits to persons to purchase or otherwise obtain from licensed manufacturing chemists or licensed wholesale chemists, scheduled substances or any prescribed class or kind of those substances, for use for industrial, educational, advisory, or research purposes but not for resale, and the conditions, limitations, and restrictions to which those permits shall be subject, and the duration, renewal, suspension, or cancellation of those permits;

(g) the precautions to be taken in or in connection with the making, refining, preparing, storing, handling, or use of scheduled substances or of any prescribed class or kind of those substances;

(h) the application for, and the granting, duration, renewal, suspension, and cancellation of, licences, permits, and authorities under this Act (other than licences under Division 3 of Part II, or under section 27, or under Part V) and the fees payable on or in respect of the granting or renewal thereof and the terms, conditions, limitations, and restrictions to which those licences, permits, and authorities shall be, or may be, made subject;

(i) prescribing the particulars to be recorded in the poisons book;

(j) prohibiting the sale of scheduled substances or of any prescribed class or kind thereof by any method of self-service other than such methods as may be prescribed;

(ja) prohibiting the sale and supply of potent substances, except in accordance with or subject to specified conditions or restrictions;

(k) specifying the persons or classes or persons authorized or entitled to purchase, use, or be in possession of scheduled substances or any prescribed class or kind of those substances;

(l) exempting from all or any of the provisions of this Act substances that by their nature are not capable of being used in evasion of this Act, or that are supplied or sold by a pharmaceutical chemist or in accordance with the prescription of a medical practitioner, dentist, or veterinary surgeon for an individual and specific case;

(m) authorizing medical practitioners and pharmaceutical chemists dispensing medicines and drugs at a hospital or other like establishment, and persons in charge of public institutions, and persons in charge of laboratories for the purpose of research or instruction, and dentists, veterinary surgeons, and such other persons as may be prescribed, to be in possession of any scheduled substance for the purposes of their respective professions or employments, and prescribing the conditions and restrictions subject to which such an authority may be given;

(n) regulating, controlling, and restricting the issue by medical practitioners, dentists, or veterinary surgeons of prescriptions for the supply of a substance that is or contains a scheduled substance, the dispensing of any such prescription, and the supply and administration of any such substance thereunder;

(na) specifying the persons or classes of persons authorised to write, issue or dispense prescriptions for restricted substances;

(o) any other purpose that the Governor deems necessary for safeguarding the public and the public health in relation to scheduled substances; and

(p) providing for any contravention of or failure to comply with a provision of the regulations to be an offence and providing on the summary conviction of a person for such an offence for the imposition of a fine not exceeding 10 penalty units.

(3) The regulations made under this section or under any other provision of this Act may require that, in such cases as may be prescribed, any application, return, record, or other document required or permitted to be made, furnished, or lodged under or for the purposes of the regulations shall be verified by statutory declaration made by such person as may be prescribed.

(4) The regulations made under this section or under any other provision of this Act –

(a) may be of general or specially limited application;

(b) may apply to or in relation to substances generally or specified classes or kinds of substances; and

(c) may make different provision in relation to different substances or may differ according to differences in the purposes for which substances are sold, supplied, or used or differences in locality, place, time, or circumstance.

(5) The regulations (whether made under this section or under any other provision of this Act) shall not be regarded as invalid on the ground that they delegate to or confer on the Minister or a prescribed officer a discretionary authority.

(6) The regulations made under this section or under any other provision of this Act are in addition to and not in derogation of any regulations made under the *Pharmacists Registration Act 2001*, the *Fertilizers Act 1993*, the *Public Health Act 1997*, the *Food Act 2003* or the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995* but if a provision of a regulation made under any one of those Acts is inconsistent with a provision of a regulation made under this Act (whether the regulation made under this Act is made before or after the making of the regulation under the other Act) the provision of the regulation made under this Act, to the extent of the inconsistency, prevails.

SCHEDULE 1 -

PART I

PART II

PART III

Table Of Amendments

Provision affected	How affected
Long Title	Amended by No. 27 of 1984, s. 4
Section 3	Amended by No. 95 of 1973, s. 2, No. 43 of 1982, s. 66 and Sched. 3, No. 99 of 1982, s. 3 and Sched. 2, No. 27 of 1984, s. 5, No. 51 of 1985, s. 4 and Sched. 2, No. 5 of 1990, s. 3 and Sched. 1, No. 4 of 1991, s. 39 and Sched. 4, No. 68 of 1994, s. 3 and Sched. 1, No. 100 of 1995, s. 97 and Sched. 7, No. 2 of 1996, s. 87 and Sched. 7, No. 13 of 1997, Sched. 4, No. 20 of 2001, Sched. 6, No. 90 of 2001, Sched. 6 and No. 9 of 2003, Sched. 1
Section 4	Repealed by No. 27 of 1984, s. 6
Section 5	Amended by No. 97 of 1987, s. 9, No. 68 of 1994, s. 3 and Sched. 1, No. 8 of 1996, s. 3 and Sched. 1, No. 90 of 2001, Sched. 6 and No. 8 of 2003, Sched. 2
Part II, Div. 1	Repealed by No. 27 of 1984, s. 7
Section 6	Repealed by No. 27 of 1984, s. 7
Section 7	Repealed by No. 27 of 1984, s. 7
Section 8	Repealed by No. 27 of 1984, s. 7
Section 9	Repealed by No. 27 of 1984, s. 7

Section 10	Repealed by No. 27 of 1984, s. 7
Section 11	Repealed by No. 27 of 1984, s. 7
Section 12	Repealed by No. 27 of 1984, s. 7
Section 13	Repealed by No. 27 of 1984, s. 7
Part II, Div. 2	Substituted by No. 27 of 1984, s. 8
Section 14	Substituted by No. 27 of 1984, s. 8
Section 15	Substituted by No. 27 of 1984, s. 8
Section 16	Amended by No. 27 of 1984, s. 9
Section 18	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 19	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 46 of 1991, s. 5 and Sched. 3 and No. 86 of 2000, Sched. 1
Section 20	Repealed by No. 5 of 1990, s. 3 and Sched. 1
Section 23	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 86 of 2000, Sched. 1 and No. 76 of 2003, Sched. 1
Section 24	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1 and No. 86 of 2000, Sched. 1
Section 25	Amended by No. 27 of 1984, s. 10 and No. 27 of 1991, s. 5 and Sched. 1
Section 25A	Inserted by No. 27 of 1984, s. 11
Section 26	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1, No. 43 of 1991, s. 5 and Sched. 1 and No. 55 of 1997, s. 4
Section 27	Amended by No. 75 of 1973, s. 2 and Sched. 1, No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1, No. 27 of 1984, s. 12, No. 43 of 1991, s. 5 and Sched. 1 and No. 9 of 2003, Sched. 1
Section 28	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 29	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 30	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 31	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 32	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 33	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1, No. 43 of 1991, s. 5 and Sched. 1 and No. 68 of 1994, s. 3 and Sched. 1
Section 34	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1 Subsection (1) substituted by No. 27 of 1984, s. 13 Subsection (2) substituted by No. 27 of 1984, s. 13 Subsection (3) inserted

Section 35	by No. 27 of 1984, s. 13 Subsection (4) added by No. 27 of 1984, s. 13 Amended by No. 43 of 1991, s. 5 and Sched. 1, No. 68 of 1994, s. 3 and Sched. 1 Repealed by No. 95 of 2001, Sched. 1
Section 36	Amended by No. 27 of 1984, s. 14 and s. 48 and Sched. 1, No. 43 of 1991, s. 5 and Sched. 1 and No. 55 of 1997, s. 5
Part III, Div 2	Amended by No. 95 of 1973, s. 4
Section 37	Amended by No. 95 of 1973, s. 11 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 38	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 15, No. 9 of 1986, s. 4, No. 87 of 1994, s. 84 and Sched. 4, No. 81 of 1995, s. 80 and Sched. 4, No. 16 of 1997, Sched. 1, No. 55 of 1997, s. 6 and No. 6 of 2000, s. 4
Section 40	Amended by No. 27 of 1984, s. 16 and No. 68 of 1994, s. 3 and Sched. 1
Section 41	Amended by No. 27 of 1984, s. 17 and No. 43 of 1991, s. 5 and Sched. 1
Section 42	Amended by No. 27 of 1984, s. 18
Section 43	Substituted by No. 27 of 1984, s. 48 and Sched. 1 Amended by No. 43 of 1991, s. 5 and Sched. 1
Section 44	Amended by No. 27 of 1984, s. 19 and No. 95 of 2001, Sched. 1
Section 45	Amended by No. 27 of 1984, s. 48 and Sched. 1, No. 43 of 1991, s. 5 and Sched. 1 and No. 55 of 1997, s. 7
Section 46	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 47	Amended by No. 27 of 1984, s. 20, No. 9 of 1986, s. 5, No. 16 of 1997, Sched. 1 and No. 95 of 2001, Sched. 1
Section 48	Amended by No. 27 of 1984, s. 21 and No. 43 of 1991, s. 5 and Sched. 1
Section 49	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 50	Amended by No. 95 of 1973, s. 5
Section 51	Amended by No. 99 of 1982, s. 3 and Sched. 2, Pt. II Subsection (1) substituted by No. 27 of 1984, s. 22 Amended by No. 27 of 1984, s. 22 and s. 48 and Sched. 1 Subsection (3) substituted by No. 27 of 1984, s. 22 Subsection (4) added by No. 27 of 1984, s. 22 Amended by No. 43 of 1991, s. 5 and Sched. 1 Repealed by No. 95 of 2001, Sched. 1
Section 52	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Division 3 of Part V	Repealed by No. 95 of 2001, Sched. 1
Section 54	Amended by No. 27 of 1984, s. 48 and Sched. 1 Subsection (4) omitted by No. 27 of 1984, s. 23 Subsection (5) omitted by No. 27 of 1984, s. 23 Amended by No. 43 of 1991, s. 5 and Sched. 1 Repealed by No. 95 of 2001, Sched. 1

Section 55	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 56	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 58	Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 9 of 2003, Sched. 1
Section 59	Amended by No. 43 of 1982, s. 66 and Sched. 3, No. 27 of 1984, s. 24, No. 68 of 1994, s. 3 and Sched. 1, No. 2 of 1996, s. 87 and Sched. 7, No. 20 of 2001, Sched. 6 and No. 90 of 2001, Sched. 6
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Section 60	Amended by No. 27 of 1984, s. 26
Section 61	Amended by No. 95 of 1973, s. 6 and No. 27 of 1984, s. 27
Section 62	Amended by No. 27 of 1984, s. 28
Section 63	Amended by No. 27 of 1984, s. 29
Section 64	Amended by No. 27 of 1984, s. 30
Section 65	Amended by No. 27 of 1984, s. 31
Section 66	Amended by No. 27 of 1984, s. 32
Section 69	Amended by No. 27 of 1984, s. 33 and s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 69A	Inserted by No. 95 of 1973, s. 7
Section 71	Substituted by No. 27 of 1984, s. 34 Amended by No. 27 of 1991, s. 5 and Sched. 1 and No. 80 of 2001, Sched. 1
Section 78	Amended by No. 27 of 1984, s. 35, No. 27 of 1991, s. 5 and Sched. 1 and No. 80 of 2001, Sched. 1
Section 80	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 81	Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 82	Amended by No. 27 of 1984, s. 36, No. 43 of 1991, s. 5 and Sched. 1 and No. 35 of 1997, Sched. 1
Section 83	Substituted by No. 95 of 1973, s. 8 Amended by No. 27 of 1984, s. 48 and Sched. 1 and No. 43 of 1991, s. 5 and Sched. 1
Section 83A	Inserted by No. 27 of 1984, s. 37 Amended by No. 43 of 1991, s. 5 and Sched. 1
Section 83B	Inserted by No. 27 of 1984, s. 37 Amended by No. 43 of 1991, s. 5 and Sched. 1
Section 84	Substituted by No. 27 of 1984, s. 38 Amended by No. 20 of 1993, s. 81 and No. 35 of 1997, Sched. 1
Section 85	Repealed by No. 27 of 1984, s. 39
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Section 86B	Repealed by No. 20 of 1993, s. 81
Section 86C	Repealed by No. 20 of 1993, s. 81

Section 86D	Repealed by No. 20 of 1993, s. 81
Section 90	Substituted by No. 27 of 1984, s. 41
Section 90A	Inserted by No. 27 of 1984, s. 42 Substituted by No. 35 of 1997, Sched. 1
Section 90B	Inserted by No. 27 of 1984, s. 42
Section 90C	Inserted by No. 27 of 1984, s. 42 Amended by No. 5 of 1990, s. 3 and Sched. 1
Section 90D	Inserted by No. 27 of 1984, s. 42 Amended by No. 43 of 1991, s. 5 and Sched. 1 and No. 35 of 1997, Sched. 1
Section 90E	Inserted by No. 27 of 1984, s. 42
Section 91	Amended by No. 27 of 1984, s. 43 and No. 5 of 1990, s. 3 and Sched. 1
Section 92	Amended by No. 27 of 1984, s. 44 Subsection (6) substituted by No. 46 of 1991, s. 5 and Sched. 3 Amended by No. 55 of 1997 and No. 73 of 2001, Sched. 1
Section 92A	Inserted by No. 27 of 1984, s. 45
Section 93	Amended by No. 95 of 1973, s. 11 and Sched. 1, No. 27 of 1984, s. 46, No. 40 of 1987, s. 37, No. 43 of 1991, s. 5 and Sched. 1, No. 68 of 1994, s. 3 and Sched. 1, No. 8 of 1996, s. 3 and Sched. 1, No. 55 of 1997, s. 9, No. 90 of 2001, Sched. 6 and No. 8 of 2003, Sched. 2
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Part II of Schedule 1	Amended by No. 95 of 2001, Sched. 1
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