

NORFOLK



ISLAND

POISONS AND DANGEROUS SUBSTANCES ACT 1957

[Consolidated as at 4 July 2002
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

PART 1 — PRELIMINARY

1. Short title
2. Commencement
3. Parts
4. Definitions
5. Non-application of Act

PART 2 — SUPPLY OF POISONS

6. Licences
7. Poisons register to be kept
8. Supply, except by certain persons, prohibited
9. Supply to a person who has not attained the age of 18 years prohibited
10. Supply to a person unknown to vendor prohibited
11. Special provisions dealing with the supply of Part 1 poisons

12. Medical practitioner or veterinary surgeon to make entries in poisons register
13. Pharmaceutical chemist and licensed dealer to make entries in poisons register
14. Supply upon signed order
15. Non-application of sections 9, 10, 13 and 14

PART 3 — SUPPLY OF DANGEROUS SUBSTANCES

16. Supply in a public place or from house to house prohibited

PART 4 — MISCELLANEOUS

17. False statement concerning identity prohibited
18. Prescription, etc, to be retained for 2 years
19. Sale of arsenic, etc

.....

- 20A. Averments
- 20B. Evidence that a substance is a poison, etc
- 20C. Search warrants
- 20D. Forfeiture of goods
21. Regulations
 - First Schedule
 - Second Schedule



Poisons and Dangerous Substances Act 1957

An Act to provide for the control of poisons, drugs, dangerous substances and articles used in medicine and surgery, and for other purposes

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Poisons and Dangerous Substances Act 1957*.

Commencement

2. This Act shall commence on a date to be fixed by the Administrator by notice posted on or near the Court House, Norfolk Island.

Parts

3. This Act is divided into Parts, as follows :

Part 1 — Preliminary

Part 2 — Supply of Poisons

Part 3 — Supply of Dangerous Substances

Part 4 — Miscellaneous.

Definitions

4. In this Act, unless the contrary intention appears —

“dangerous substance” means a substance specified in Schedule 2 and includes a mixture, compound or preparation containing a substance so specified;

“dentist” means a person whose name is registered in the Register of Dentists kept under the *Registration of Dentists Act 1931*;

“licensed dealer” means a person to whom a licence to sell a poison or poisons has been granted under this Act, and includes a servant of such a person acting in the course of his employment;

- “medical practitioner” means a person registered as a medical practitioner under a law of a State or of a Territory of the Commonwealth providing for the registration of medical practitioners;
- “pharmaceutical chemist” means a person whose name is registered in the Register of Pharmaceutical Chemists kept under the *Pharmacy Act 1956*, and includes a servant of such a person acting in the course of his employment;
- “poison” means a substance specified in Schedule 1 and includes a mixture, compound or preparation containing a substance so specified;
- “poisons register”, in relation to a medical practitioner, a veterinary surgeon, a pharmaceutical chemist or a licensed dealer, means the poisons register kept by him in pursuance of this Act;
- “purchaser” includes a person to whom a substance has been offered or supplied;
- “sell” includes offer to sell, supply or offer to supply, exhibit or display in any shop or other place where goods are sold to the public or expose, or have in possession, for sale and “sale” and “selling” each has a corresponding meaning;
- “veterinary surgeon” means a person registered as a veterinary surgeon under a law of a State or of a Territory of the Commonwealth providing for the registration of veterinary surgeons.

Non-application of Act

5. This Act does not apply to the Administration or to an officer or employee of the Commonwealth or of the Administration while acting in his official capacity.

PART 2 — SUPPLY OF POISONS

Licences

6. (1) The Administrator may, on payment of the prescribed fee, grant to a person a licence to sell a poison or poisons.
- (2) A licence so granted may be limited to apply to the sale

of a particular substance or particular substances or a particular class, or particular classes, of substances only, or to sales at a particular place or particular places only.

(3) The Administrator may at any time revoke a licence so granted.

(4) A licence so granted shall, unless sooner revoked, remain in force for the period specified in the licence.

(5) The Administrator may, from time to time on payment of the prescribed fee, renew a licence so granted.

Poisons register to be kept

7. A medical practitioner, a veterinary surgeon, a pharmaceutical chemist or a licensed dealer shall keep a poisons register in the prescribed form.

Penalty: 10 penalty units.

Supply, except by certain persons, prohibited

8. (1) Subject to this section, a person shall not —

- (a) sell a poison; or
- (b) hawk or peddle a poison from house to house.

Penalty: 20 penalty units or imprisonment for 12 months.

(2) Subsection 8(1) does not operate —

- (a) so as to prohibit a medical practitioner or a veterinary surgeon from selling a poison in the ordinary course of his medical or veterinary practice; or
- (b) so as to prohibit a pharmaceutical chemist or a licensed dealer licensed so to do from selling a poison at the place where he carries on his business.

(3) Where, at the commencement of this Act, a person has a poison in his possession for sale, that person may, with the permission in writing of the Administrator, sell that poison within one month after the commencement of this Act.

Supply to a person who has not attained the age of 18 years prohibited

9. A pharmaceutical chemist or a licensed dealer shall not sell a poison to a person who has not attained the age of 18 years.

Penalty: 10 penalty units or imprisonment for 6 months.

Supply to a person unknown to vendor prohibited

10. Subject to section 14, a pharmaceutical chemist or a licensed dealer shall not sell a poison —

- (a) unless he delivers the poison to the purchaser direct; and
- (b) unless —
 - (i) he knows, at the time when the poison is so delivered, that the purchaser is the person whom the purchaser represents himself to be; or
 - (ii) he knows that a third party present when the poison is so delivered is the person whom the third party represents himself to be, and he is informed by that third party that the purchaser is the person whom the purchaser represents himself to be.

Penalty: 10 penalty units or imprisonment for 6 months.

Special provisions dealing with the supply of Part 1 poisons

11. A pharmaceutical chemist or a licensed dealer shall not sell a poison specified in Part I of Schedule 1 —

- (a) except on the presentation to him of a prescription or order authorising the sale issued over a signature that he reasonably believes to be the signature of a medical practitioner, a dentist or a veterinary surgeon; and
- (b) unless he reasonably believes —
 - (i) that the poison has not previously been supplied in accordance with that prescription or order; or
 - (ii) where the prescription or order states that the sale authorised by it may be repeated either once or a number of times - that the poison has not previously been supplied in accordance with the prescription or order for the last of the permitted number of times stated in the prescription or order.

Penalty: 10 penalty units or imprisonment for 6 months.

Medical practitioner or veterinary surgeon to make entries in poisons register

12. A medical practitioner or a veterinary surgeon shall not sell a poison specified in Part 1 of Schedule 1 unless he makes the prescribed entries in the poisons register.

Penalty: 10 penalty units.

Pharmaceutical chemist and licensed dealer to make entries in poisons register

13. Subject to section 14, a pharmaceutical chemist or a licensed dealer shall not sell a poison specified in Part 2 of Schedule 1 unless —

- (a) he makes the prescribed entries in the poisons register;
- (b) he signs, as prescribed, the poisons register; and
- (c) the purchaser signs, or, where a third party identifies the purchaser, the third party and the purchaser sign, as prescribed, the poisons register.

Penalty: 10 penalty units or imprisonment for 6 months.

Supply upon signed order

14. (1) Where —

- (a) a pharmaceutical chemist or a licensed dealer licensed so to do receives a signed request from a person for the sale to the person of a poison specified in Part 2 of Schedule 1; and
- (b) the signature on the request —
 - (i) is, to the knowledge of the pharmaceutical chemist or licensed dealer, the signature of the person whose signature it purports to be; or
 - (ii) is supported by a second signature on the request which is, to the knowledge of the pharmaceutical chemist or licensed dealer, the signature of the person whose signature it purports to be,

the pharmaceutical chemist or licensed dealer, as the case requires, may sell the poison as requested.

(2) Where a pharmaceutical chemist or a licensed dealer sells a poison under subsection 14(1), he shall, before sending or delivering the poison to the purchaser —

- (a) make the prescribed entries in the poisons register; and

(b) sign, as prescribed, the poisons register.

(3) Where a pharmaceutical chemist or a licensed dealer sells a poison under subsection 14(1), and the purchaser is not present to accept delivery of the poison, the pharmaceutical chemist or the licensed dealer shall send the poison to the purchaser in the manner prescribed.

Penalty: 10 penalty units or imprisonment for 6 months.

Non-application of sections 9, 10, 13 and 14

15. Sections 9, 10, 13 and 14 do not apply —

- (a) to the sale of a poison (whether specified in Part 1 of Schedule 1 or not) by a pharmaceutical chemist in accordance with the conditions of sale specified in section 11 for a poison specified in Part 1 of Schedule 1;
- (b) to the sale of a poison by a pharmaceutical chemist for the purpose of treating a simple ailment of common occurrence; or
- (c) to the sale of a poison which is in the form of homeopathic medicine unless in the crude state, mother tincture or of a strength greater than the third decimal potency.

PART 3 — SUPPLY OF DANGEROUS SUBSTANCES

Supply in a public place or from house to house prohibited

16. A person shall not —

- (a) sell a dangerous substance in a public place; or
- (b) hawk or peddle a dangerous substance from house to house.

Penalty: 20 penalty units or imprisonment for 12 months.

PART 4 — MISCELLANEOUS

False statement concerning identity prohibited

17. A person shall not, with the intention of inducing a medical practitioner, a pharmaceutical chemist or a licensed dealer to sell a poison to a third party, make to the medical practitioner, pharmaceutical chemist or licensed dealer, as the case may be, a false statement concerning the identity of that third party.

Penalty: 10 penalty units or imprisonment for 6 months.

Prescription, etc, to be retained for 2 years

18. A pharmaceutical chemist or licensed dealer who sells a poison on the presentation to him of a signed prescription, order or request shall

retain the prescription, order or request for a period of 2 years from the day the poison is delivered to the purchaser.

Penalty: 10 penalty units.

Sale of arsenic, etc

19. Notwithstanding anything contained in this Act, a person may sell —

- (a) arsenic in quantities of 28 pounds or more packed in the prescribed manner;
- (b) commercial cyanide in quantities of 28 pounds or more in the prescribed manner; or
- (c) cattle or sheep dip packed in the prescribed manner,

to a person who is engaged in mining, agriculture or horticulture or in the keeping or breeding of animals.

....

Averments

20A. (1) In a prosecution for an offence under this Act or the regulations the averment of the prosecutor, made in writing, stating —

- (a) in the case of a single substance - the identity of the substance; or
- (b) in the case of a preparation or mixture of substances - the identity of any substance forming part of the preparation or mixture and the proportion, expressed as a percentage, that the weight or volume of the substance bears to the weight or volume of the preparation or mixture,

is evidence of the matter or matters so averred.

(2) Any evidence given in support or rebuttal of a matter so averred shall be considered on its merits, and its credibility and probative value shall be neither increased nor diminished by reason of subsection 20A(1).

(3) An averment with respect to a substance shall not be made unless the Administrator is satisfied that the statements in the averment are based on the report of a competent analyst made with respect to the substance or to a preparation or mixture of which the substance forms part.

(4) An averment shall be made when the information relating to the offence is laid but the averment shall be in a document

separate from the information.

(5) A copy of an averment shall be served on the person charged —

- (a) where a warrant authorising his apprehension has been issued - at the time at which the warrant is executed; or
- (b) where a summons requiring his presence before a court has been issued - at the time at which, and in the manner in which, the summons is served.

Evidence that a substance is a poison, etc

20B. In a prosecution for an offence under this Act or the Regulations with respect to a substance —

- (a) evidence that the substance was, at the time of the alleged offence, in a container bearing a label containing the word “Poison” or “Poisonous” is evidence that the substance is a poison;
- (b) evidence that the substance was, at the time of the alleged offence, in a container bearing a label purporting to describe the contents of the container is evidence that the substance is of the kind so described; and
- (c) evidence that a substance commonly sold under the same name or description as the first-mentioned substance is a poison or dangerous substance is evidence that the first-mentioned substance is a poison or dangerous substance, as the case may be.

Search warrants

20C. If a Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that there is in any house, vessel or place —

- (a) anything with respect to which an offence against this Act or the Regulations has been or is suspected on reasonable grounds to have been committed; or
- (b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of an offence against this Act or the Regulations,

he may grant a search warrant authorising a member of the Police Force or other person named in the warrant, with such assistance as the member or other person thinks necessary, to enter, if necessary by force, at any time

within one month from the date of the warrant, any premises or place named or described in the warrant, to search the premises or place and any person or vehicle found on the premises or place, and to seize and carry away anything referred to in paragraph 20C(a) or 20C(b) found on the premises or place, in the possession of a person on the premises or place or in a vehicle on the premises or place.

Forfeiture of goods

20D. A poison or dangerous substance with respect to which an offence has been committed under this Act or the Regulations is forfeited.

Regulations

21. The Minister may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular —

- (a) for regulating or controlling the manufacturing, storing, packing, bottling, and labelling of poisons or dangerous substances;
- (b) for providing for the safe custody of poisons or dangerous substances;
- (c) for providing for the colouring of poisons or dangerous substances;
- (d) for providing for information concerning the antidote for a poison to be supplied by the manufacturer or vendor of the poison by notice printed on or attached to the bottle or package in which the poison is bottled or packed for sale;
- (e) for prohibiting the manufacture or supply, either absolutely or except by a particular person or persons or a particular class or classes of persons, or except under prescribed conditions, of a poison or dangerous substance;
- (f) for providing for the inspection by a member of the Police Force of the Territory or other authorised person of books or documents relating to the manufacture or supply of poisons or dangerous substances;
- (g) for providing for the furnishing of information in relation to the manufacture or supply of poisons or dangerous substances by persons engaged in such manufacture or supply;

- (h) for providing that where specified liniments, ointments and other preparations —
- (i) contain a substance specified in Part 1 of Schedule 1;
 - (ii) are prepared for external use only; and
 - (iii) are, in the opinion of the Administrator, not likely to be taken internally or in any other way wrongly used,
- they shall, for the purposes of this Act, be deemed not to contain a substance specified in Part 1 of that Schedule but to contain a substance specified in Part 3 of that Schedule;
- (i) for prescribing the forms to be used for the purposes of this Act; and
- (j) for prescribing penalties not exceeding 5 penalty units for offences against the Regulations.

SCHEDULE 1
POISONS
Part 1

Sections 4, 11, 12, 15, 20 and 21

Acetanilide.

Aconitine and alkaloids of aconite.

Adrenalin, and substitutes therefor.

Alpha Eucaine.

Aureomycin, Chloramphenicol (Chloromycetin), Terramycin and any similar antibiotic.

Avertin.

Benzedrine, unless contained in a preparation for local application.

Beta Eucaine.

....

Chloral Hydrate.

Chloroform unless contained in a preparation or mixture of which it forms less than 20%,
by volume.

.....

....

....

Diamorphine and its salts.

Dicoumarol.

Diethyl-barbituric acid and other alkyl, aryl, or metallic derivatives of barbituric acid,
whether described as Veronal, Proponal, Medinal, or by any other name.

Digitalis, Digitalin.

Dionin.

....

Ephedrine, unless contained in a preparation for local application.

Ergot of Rye.

Erthrol Tetranitrate.

Eserine.

Heparin.

Hormones and artificial hormones, other than plant hormones.

Hyoscyamine and Hyoscine.

....

....

Para-amino benzoic Acid and para-amino Salicylic Acid and compounds and salts of either of these acids.

Paraldehyde.

Phenylethylhydantoin, its salts, its acyl derivatives and their salts.

Phenytoin Sodium, the sodium salt of 5:5 Diphenylhydantoin, whether known as Dilantin Sodium, Epanutin, Eptoin, Solantoin or by any other name.

Picrotoxin.

Pilocarpine.

Pituitary Extract.

Radioactive substances.

Savin and oil of Savin.

Streptomycin, and its chemical compounds and salts.

Strophanthus.

Sulphonal and its homologues, whether described as Trional, Tetronal, or by any other name.

Sulphonamides and their salts, chemical compounds and derivatives, namely, Sulphanilamide, Sulphapyridine, Sulphathiazole, Sulphadiazine, Sulphamerazine, Sulphadimidine but excepting Sulphanilyl-guanidine (Sulphaguanidine).

Sulphones and their salts, chemical compounds and derivatives, namely, Promin, Dapsone, Diaminodiphenyl-sulphone (D.A.D.P.S.), Sulphetrone

Thyroid Gland and all endocrine preparations.

....

Any Urethanes or Ureides prescribed by the regulations.

Part 2

Sections 4, 13 and 14

Aconite, its salts and preparations.

Alkaloids, their salts, and their derivatives, not specifically included in this Schedule, or in Schedule 2 to this Act, the maximum medicinal dose of which is not more than one grain.

Antimony and its salts unless contained in a preparation or mixture containing less than 1% of tartar emetic.

Arsenic and its chemical compounds unless contained in a preparation or mixture of which it forms 0.5% or less calculated as arsenious oxide (As_2O_3).

Belladonna and belladonna alkaloids unless contained in a preparation or mixture of which the alkaloids form 0.1% or less by weight or volume.

Cantharidin and tincture of Cantharides unless contained in a preparation or mixture of which the tincture of Cantharides forms 10% or less by weight or volume.

Carbolic Acid (pure).

Chlorodyne.

Croton Oil.

Cyanogen and its compounds, except commercial cyanides for metallurgical purposes and cyanide fumigants.

Damiana.

Dinitrophenol.

Hexylresorcinol.

Oil of Almonds (unless deprived of hydrocyanic acid).

Phosphorous compounds.

Thallium, its salts and preparations and admixtures of thallium or its salts.

Part 3

Sections 4, 20 and 21

Acid oxalic and poisonous oxalates.

Acid Picric

Acid Trichloroacetic.

Amyl Nitrite.

Arsenic and any of its chemical compounds contained in a preparation or mixture of which it forms 0.5% or less calculated as arsenious oxide (As_2O_3).

Belladonna plasters and Belladonna alkaloids contained in a preparation or mixture of which the alkaloids form 0.1% or less.

Beta Naphthol.

Chloroform contained in a preparation or mixture of which it forms less than 20% and more than 1%.

Creosote (pure).

Dover's Powder.

Insulin and substitutes for insulin.

Iodum and all preparations of iodine, except weak tincture of iodine.

Liquor Cresolis Saponatus and similar preparations containing 40% or more of cresylic acid by weight or volume.

Medicinal salts and medicinal compounds of lead.

Mercurochrome unless contained in a preparation or mixture of which it forms 2% or less by weight or volume.

Salts and compounds of Mercury.

Santonin and preparations or admixtures thereof.

Sodium Nitrite.
Tetrachlorethylene.
Zinc salts prescribed by the Regulations.

SCHEDULE 2
DANGEROUS SUBSTANCES

Sections 4 and 16

Acetylene and Calcium Carbide.
Ammonia.
Amyl Acetate.
Benzene - Hexachloride and its isomers (Gammexane).
Carbon Bisulphide.
Cattle Dips.
Caustic Alkalies.
Commercial Cyanides for metallurgical purposes.
Copper sulphate.
Cyanide Fumigants.
Dichloro-diphenyl-trichloroethane (D.D.T.) and its isomers.
Disinfectants of creosol type, not included in Schedule 1 to this Act.
Disinfectants of essential oil type.
Formaldehyde and Formalin.
Hydrofluoric Acid.
Kerosene, Benzene or Benzine, which is not contained in the original containers in which it was issued for sale by the manufacturers.
Lead Tetraethyl.
Mercurochrome solution containing not more than 2% of mercurochrome by weight or volume.
Methylated spirit.
Mineral acids.
Sheep dips.
Sodium Fluoride.
Sulphur Chloride.
Weak tincture of Iodine.
All preparations containing not less than 5% of Dichloro-diphenyl-trichloroethane (D.D.T.) or not less than 0.5% of Benzene-Hexachloride (Gammexane).
Any paint, dope or varnish prescribed by the Regulations.
Any spray or dust for agricultural use, or any preparation for destroying vermin, prescribed by the Regulations.

NOTES

The *Poisons and Dangerous Substances Act 1957* as shown in this consolidation comprises Act No. 4 of 1957 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Poisons and Dangerous Substances Act 1957</i>	4, 1957	11.4.57	5
<i>Poisons and Dangerous Substances Act 1959</i>	6, 1959	15.10.59	
<i>Amendments Incorporation Act 1963</i>	2, 1963	28.3.63	
<i>Ordinances Revision Act 1964</i>	6, 1964	30.6.64	6
<i>Poisons and Dangerous Substances Act 1968</i>	5, 1968	20.6.68	
<i>Poisons and Dangerous Substances Act 1973</i>	8, 1973	20.12.73	
<i>Ordinances Citation Act 1976</i>	11, 1976	25.11.76	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision Act 1979</i>	2, 1980	10.8.79	
<i>Ordinances Revision Act 1980</i>	6, 1980	10.8.79	
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4

[previously consolidated as at 1 December 1987]

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Poisons and Dangerous Substances Amendment Act 1995</i>	18, 1995	23.11.95	

Table of Amendments

ad = added or inserted am = amended rep = repealed rs = repealed and substituted

Provisions affected	How affected
1	am 2, 1963; 5, 1968; 8, 1973; 11, 1976
3	am 5, 1968; 8, 1973
4	am 6, 1959
4(2)	ad 6, 1968 rep 8, 1973
5	am 5, 1968; 8, 1973 rs 13, 1979 am 2, 1980; 6, 1980
7-14	am 5, 1968; 9, 1985
16	am 5, 1968; 9, 1985
16A, 16B	ad 5, 1968 rep 8, 1973
17, 18	am 5, 1968; 9, 1985
20	rep 18, 1995
20A, 20B	ad 6, 1959
20C	ad 6, 1959 am 6, 1964
20D	ad 6, 1959 am 5, 1968; 8, 1973
21	am 5, 1968; 9, 1985
Schedule 1	am 18, 1995
Schedule 3	ad 5, 1968 rep 8, 1973

© Norfolk Island Government 2002

The *Copyright Act 1968* of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Draftsperson, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.