
STATUTORY INSTRUMENTS

1976 No. 1214 (N.I. 23)

Poisons (Northern Ireland) Order 1976

- - - - - [30th July 1976]

PART I
INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Poisons (Northern Ireland) Order 1976.
(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of Health and Social Services;

“district council's register” has the meaning assigned to it by Article 4(3)(b);

“fully registered person” has the meaning assigned to it by^{[F1} section 55 of the Medical Act 1983];

“the Medicines Act” means the Medicines Act 1968 ;

“methylated ether” includes any ether manufactured from methylated spirits or from industrial spirits and preparations containing methylated ether;

“person lawfully conducting a retail pharmacy business” shall be construed in accordance with section 69 of the Medicines Act;

“pharmacist” means a person who is, or is deemed to be, a pharmacist for the purposes of any provision of the Medicines Act;

“the Poisons Inspector” means an inspector appointed under Article 16(1);

“the Poisons List” has the meaning assigned to it by Article 4(8);

“prescribe” means prescribe by regulations;

Definition rep. by 1991 NI 7

“registered” means—

- (a) in relation to a pharmacist, registered in the appropriate register under Article 6 of the Pharmacy (Northern Ireland) Order 1976 ;
- (b) in relation to a dentist, registered in pursuance of the Dentists Act 1957 ;

- (c) in relation to a veterinary practitioner, registered in pursuance of the Veterinary Surgeons Act 1966 in the supplementary veterinary register;
 - (d) in relation to a veterinary surgeon, registered in pursuance of the said Act of 1966;
 - (e) in relation to a person registered under Article 7 as a person entitled to sell non-medicinal poisons included in Part II of the Poisons List, registered in pursuance of that Article;
- “registered dentist” includes a body corporate entitled to carry on the business of dentistry;
- “registered pharmacy” has the meaning assigned to it by section 74 of the Medicines Act;
- “regulations” means regulations made by the Department subject to negative resolution;
- “retail pharmacy business” has the meaning assigned to it by section 132(1) of the Medicines Act;
- “sale by way of wholesale dealing” means sale to a person who buys for the purpose of selling again.
- (3) In this Order, “non-medicinal poison” means a substance which is included in Part I or Part II of the Poisons List and is neither—
- (a) a medicinal product as defined in section 130 of the Medicines Act; nor
 - (b) a substance in relation to which, by virtue of an order under section 104 or 105 of that Act (and whether, in the case of an order under section 104 of that Act, it is referred to in the order as a substance or as an article), the provisions of sections 51 to 54 and 69 to 77 of that Act (whether subject to exceptions and modifications or not and with or without other provisions of that Act) have effect as they have effect in relation to medicinal products as so defined.

Annotations:

F1 1983 c. 54

PART II

THE POISONS BOARD

The Poisons Board

3. There shall continue to be a Poisons Board and the provisions of Schedule 1 shall have effect with respect to the constitution of the Poisons Board and other matters relating to that Board and its members.

Functions of Poisons Board

4.—(1) The Poisons Board shall advise the Department on the substances which are to be treated as non-medicinal poisons for the purposes of this Order and on such other matters (if any) as may be referred to it by the Department.

(2) The Poisons Board shall prepare and submit to the Department for confirmation a list of the substances which are to be treated as non-medicinal poisons for the purposes of this Order.

(3) The said list shall consist of two parts of which—

- (a) Part I shall contain those substances which are, by virtue of and subject to the provisions of this Order, prohibited from being sold except by a person lawfully conducting a retail pharmacy business; and
- (b) Part II shall contain those substances which are, by virtue of and subject to the provisions of this Order, prohibited from being sold except by a person lawfully conducting a retail

pharmacy business or a person whose name is entered in a register kept under this Order by a district council (“a district council's register”).

(4) In determining the distribution of poisons as between Part I and Part II of the said list, regard shall be had to the desirability of restricting the said Part II to non-medicinal poisons which are in common use, or likely to come into common use and which it is reasonably necessary to include in the said Part II if the public are to have adequate facilities for obtaining them.

(5) The Department shall forthwith take into consideration the list submitted by the Poisons Board and may by order confirm it, with or without modifications, as the Department may think proper, so however that, where the Department proposes to confirm the list with modifications, the Department shall inform the Poisons Board of the proposed modifications and give to the Poisons Board a reasonable opportunity of making any observations with respect thereto, and shall, before finally confirming the list, take into consideration any observations so made.

(6) The Department may, after consultation with or on the recommendation of the Poisons Board, by order amend or vary the said list as the Department thinks proper.

(7) An order made under paragraph (5) or (6) shall—

- (a) be subject to negative resolution; and
- (b) come into operation on a date to be specified therein, which date shall not be earlier than one month from the making of the order.

(8) The said list as in force by virtue of orders made by the Department under this Article shall be known as “the Poisons List” for the purposes of this Order and this Order shall have effect as if references in this Order to the Poisons List were construed as references to the said list as so in force, so however that the Poisons Schedule in force under the Pharmacy and Poisons Acts (Northern Ireland) 1925 to 1955 at the commencement of this Order shall remain in full force and effect until the coming into operation of the first order made by the Department after the commencement of this Order confirming a list under paragraph (5).

PART III

CONTROL OF NON-MEDICINAL POISONS

Prohibitions and regulations with respect to sale of non-medicinal poisons

5.—(1) Subject to the provisions of this Order, a person shall not sell—

- (a) any non-medicinal poison which is a substance included in Part I of the Poisons List unless—
 - (i) he is a person lawfully conducting a retail pharmacy business;
 - (ii) the sale is effected on premises which are a registered pharmacy; and
 - (iii) the sale is effected by, or under the personal control of, a pharmacist;
- (b) any non-medicinal poison which is a substance included in Part II of the Poisons List unless—
 - (i) he is a person lawfully conducting a retail pharmacy business and the sale is effected on premises which are a registered pharmacy; or
 - (ii) his name is entered in a district council's register in respect of the premises on which the poison is sold;
- (c) any non-medicinal poison, whether it is a substance included in Part I or in Part II of the Poisons List, unless the container of the poison is labelled in the prescribed manner—
 - (i) with the name of the poison;

- (ii) in the case of a preparation which contains a poison as one of the ingredients thereof, with the prescribed particulars as to the proportion which the poison contained in the preparation bears to the total ingredients;
- (iii) with the word “poison” or other prescribed indication of the character of the article; and
- (iv) with the name of the seller of the poison and the address of the premises on which it was sold.

(2) Subject to the provisions of this Order and to any regulations dispensing with or relaxing any of the requirements of this paragraph—

- (a) a person shall not sell any non-medicinal poison which is a substance included in Part I of the Poisons List to any other person, unless that other person is either—
 - (i) certified in writing in the manner prescribed by regulations, and by a person authorised by regulations to give a certificate for the purposes of this Article; or
 - (ii) known by the seller or by some pharmacist in the employment of the seller at the premises where the sale is effected;
 to be a person to whom the poison may properly be sold;
- (b) the seller of any such poison shall not deliver it until—
 - (i) he has made or caused to be made an entry in a book to be kept for that purpose stating, in the form prescribed by regulations, the date of the sale, the name and address of the purchaser and of the person, if any, by whom the certificate required under sub-paragraph (a) was given, the name and quantity of the poison sold and the purposes for which it is stated by the purchaser to be required; and
 - (ii) the purchaser has affixed his signature to the entry aforesaid.

Exemption with respect to certain sales

6. Except as provided by regulations, nothing in the foregoing provisions of this Order shall extend to or interfere with the sale of non-medicinal poisons—

- (a) by way of wholesale dealing; or
- (b) to be exported to purchasers outside Northern Ireland; or
- (c) to a duly qualified medical practitioner, registered dentist or registered veterinary surgeon or veterinary practitioner for the purpose of his profession; or
- (d) for use in or in connection with any hospital or similar institution approved by an order of the Department; or
- (e) by a person carrying on a business, in the course of which poisons are regularly sold either by way of wholesale dealing or for use by the purchasers thereof in their trade or business to—
 - (i) a person who requires the poison for the purpose of his trade or business; or
 - (ii) a Government department requiring the poison for the purposes of the public service, or any district council requiring the poison in connection with the exercise by the district council of any statutory power; or
 - (iii) a person or institution concerned with scientific education or research, if the poison is required for the purposes of that education or research.

Registration of certain persons as sellers of certain non-medicinal poisons

7.—(1) Subject to paragraph (2), every district council shall—

- (a) keep a register of persons entitled to sell non-medicinal poisons which are substances included in Part II of the Poisons List on premises in respect of which their names are entered in the register; and
- (b) enter in the register the name of any person who, having premises in the district of the council, makes an application to the district council in the prescribed form to have his name entered in the register in respect of those premises.

(2) The district council may refuse to enter in, or may remove from, the register the name of any person who fails to pay^[F2] any fees determined by the council under paragraph (5)] or who, in the opinion of the district council, is, for any sufficient reason relating either to him personally or to his premises, not fit to have his name in the register.

(3) If any person is aggrieved by the refusal of the district council to enter his name in the register or by the removal of his name therefrom under this Article, he may appeal to the Department against the refusal or removal.

(4) A district council's register shall include particulars of the premises in respect of which the name of any person is entered in the register, and shall be in such form as may be prescribed.

(5) Every person shall pay to the district council such^[F2] reasonable fees as the council may determine] in respect of—

- (a) the entry of his name in the district council's register;
- (b) the making of any alteration in the district council's register in relation to the premises on which he is entitled to sell; and
- (c) the retention of his name in the district council's register in any year subsequent to the year in which his name is first entered therein.

(6) If any person whose name is entered in a district council's register is convicted before any court of any criminal offence which, in the opinion of the court, renders him unfit to have his name in the register, the court may, as part of the sentence, order his name to be removed from the register and direct that he shall, for such period as may be specified in the order, be disqualified from having his name entered in any district council's register.

(7) Every district council's register shall be open at all reasonable times to the inspection of any person without any fee, and a copy thereof or an extract therefrom shall be furnished without any fee by the council to the Department upon an application made by an officer of the Department.

(8) A person whose name is entered in a district council's register shall not use in connection with his business any title, emblem or description reasonably calculated to suggest that he is entitled to sell any non-medicinal poison other than a poison which he is under this Order entitled to sell, and if any person acts in contravention of this paragraph he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F3] level 3 on the standard scale] and where this paragraph is again contravened within one year after the conviction to a further fine not exceeding £10 for every day subsequent to the day on which he is first convicted of an offence under this paragraph on which it is so contravened.

(9) For the purposes of this Article the district council shall be the council of the district in which the applicant intends to carry on or, carries on, the business of selling non-medicinal poisons to which this Article applies.

(10) In this Article—

“prescribed” means prescribed by regulations under Article 9;

“relating to him personally” means, in relation to a person being a body corporate, relating personally to the persons (by whatever name called) controlling that body corporate, or to the managers or other officers thereof;

“year” means a period of twelve months beginning on such date as the district council may determine.

Annotations:

F2 1985 NI 15

F3 1984 NI 3

Prohibition of sale of non-medical poisons by means of automatic machines

8. A non-medical poison shall not be exposed for sale in, or be offered for sale by means of, an automatic machine.

Regulations

9.—(1) The Department may, after consultation with or on the recommendation of the Poisons Board, make regulations with respect to any of the following matters or for any of the following purposes—

- (a) the sale, whether by way of wholesale dealing or by retail, or the supply of non-medical poisons, by or to any persons and, in particular, but without prejudice to the generality of the foregoing provisions—
 - (i) for regulating or restricting the sale or supply of non-medical poisons by persons whose names are entered in a district council's register under Article 7 and for prohibiting the sale of any specified non-medical poison by any such persons;
 - (ii) for dispensing with or relaxing, with respect to non-medical poisons, any of the provisions contained in this Order relating to the sale of non-medical poisons;
- (b) the storage, transport and labelling of non-medical poisons;
- (c) the containers in which non-medical poisons may be sold or supplied;
- (d) the addition to non-medical poisons of specified ingredients for the purpose of rendering them readily distinguishable as non-medical poisons;
- (e) the mixing of non-medical poisons;
- (f) the period for which any books required to be kept for the purposes of this Order are to be preserved;
- (g) the period for which any certificate given under Article 5(2)(a)(i) is to remain in force;
- (h) prescribing or providing for anything which is under the provisions of this Order (other than Article 11 or 13) to be prescribed or provided for by regulations.

(2) The Department may issue to the Poisons Board a direction that its power to make recommendations as to the making of regulations with respect to the matters or for the purposes specified in paragraph (1)(a)(i), (b), (c) and (d) shall not be exercised except after consultation with such body of persons as is specified in the direction, being a body which is in the opinion of the Department representative of persons engaged in the manufacture of poisons or preparations containing poisons, and the Poisons Board shall comply with any such direction.

(3) The Department may revoke or vary any such direction, without prejudice to the issue of a new direction.

Penalties for certain offences

10.—(1) Any person contravening any of the provisions of this Order (other than Article 7(8) or 11, Part IV or Article 16), or any regulations under Article 9, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F4} level 4 on the standard scale] and where this paragraph is again contravened within one year after the conviction to a further fine not

exceeding £10 for every day, subsequent to the day on which he is first convicted of an offence under this paragraph, on which it is so contravened.

(2) In the case of proceedings against a person under paragraph (1) for or in connection with the sale, exposure for sale or supply of a non-medicinal poison effected by an employee—

- (a) it shall not be a defence that the employee acted without the authority of the employer; and
- (b) any material fact known to the employee shall be deemed to have been known to the employer.

Annotations:

F4 1984 NI 3

Regulations as to distribution of non-medicinal poisons by district councils

11.—(1) The Department may make regulations prescribing the conditions to be observed, and the precautions to be taken, in connection with the distribution of non-medicinal poisons free of charge for the purposes of the Public Health Acts (Northern Ireland) 1878 to 1967, and district councils and their officers shall comply with such regulations.

(2) Any person wilfully neglecting or refusing to obey or carry out, or obstructing the execution of, any regulation under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F5] level 3 on the standard scale].

Annotations:

F5 1984 NI 3

PART IV

CONTROL OF METHYLATED SPIRITS AND METHYLATED ETHER

Restrictions on sale of methylated spirits and methylated ether

12.—(1) A retailer of methylated spirits shall not sell such spirits to any person under the age of eighteen years or, without prejudice to the foregoing prohibition, sell methylated spirits to any person unknown to the seller, unless such person is introduced by some person known to the seller; and, on every sale by retail of methylated spirits, there shall be affixed to every bottle or vessel containing such spirits a label bearing the name and address of the seller and the name and address of the person making the sale.

(2) Any person selling methylated spirits by retail otherwise than in accordance with the provisions of paragraph (1), and any person making a false statement to such seller or to an intending seller for the purpose of procuring a sale, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F6] level 3 on the standard scale].

(3) For the purposes of paragraphs (1) and (2), a person on whose behalf any sale is made by an agent, apprentice or servant shall be deemed to be the seller.

(4) Any officer of the Commissioners of Customs and Excise or any constable may, at all reasonable times, enter into any premises or portion thereof in which methylated spirits are sold, or exposed for sale, by retail, and require any retailer of methylated spirits, and any agent, apprentice or servant of such retailer, to produce for inspection accounts showing particulars of purchases, sales and stock in hand.

(5) Any person who uses methylated spirits or methylated ether for the purpose of drinking or who wilfully connives with any person to obtain such spirits or ether for the purpose of drinking, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F6] level 3 on the standard scale].

Annotations:

F6 1984 NI 3

Supplementary provisions relating to methylated spirits and methylated ether

13.—(1) Every retailer of methylated spirits or methylated ether shall keep such records, accounts and particulars regarding such spirits or ether as may be prescribed by regulations; and a retailer failing to comply with the regulations or to produce such records, accounts and particulars for inspection to any person authorised by the Department, or when required under Article 12(4), or falsifying such records, accounts or particulars, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F7] level 3 on the standard scale].

(2) A person shall not supply, sell or offer for sale methylated ether, except in the following cases—

- (a) where the ether is supplied, sold or offered to a person registered under the Medical Acts 1956 to 1969, or the Dentists Act 1957, for the purposes of his profession; or
- (b) where the ether is supplied, or sold, on the order of a person registered as aforesaid, for use in a hospital or similar institution; or
- (c) where the ether is supplied, sold or offered to a wholesale dealer for the purpose of export from Northern Ireland; or
- (d) where the ether is supplied, sold or offered for sale, by wholesale, to a retail dealer in the ordinary course of wholesale dealing; or
- (e) where the transaction is for such purpose, or takes place under such conditions, as may be authorised by regulations.

(3) Any person who acts in contravention of the provisions of paragraph (2), or who has methylated ether in his possession otherwise than for a purpose for which ether may be lawfully purchased, sold or supplied under that paragraph, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F7] level 3 on the standard scale].

(4) Where a justice of the peace is satisfied by complaint on oath that there is reasonable ground for believing that any methylated spirits or methylated ether are exposed or kept for sale at any place in the county or county borough for which he is justice in contravention of the provisions of Article 12 or of this Article, he may issue a search warrant under his hand authorising a constable at any time or times within one month from the date of the warrant—

- (i) to enter that place, by force if need be; and
- (ii) to examine and search that place for methylated spirits or methylated ether; and
- (iii) where the constable has reasonable grounds for suspecting that any methylated spirits or methylated ether found therein to be in that place for the purpose of sale there or elsewhere in contravention of those provisions, to seize and remove any such spirits or ether and their containers.

(5) In the event of the owner or occupier of such premises being convicted of exposing or keeping for sale any methylated spirits or methylated ether in contravention of the provisions of Article 12 or of this Article, the spirits or ether so seized, and their containers, shall be forfeited.

(6) Every wholesale dealer in methylated ether shall keep, in such form as may be prescribed by regulations, particulars of all his sales of such ether, and a wholesale dealer failing to keep such particulars, or to produce them to any person authorised by the Department when required, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F7} level 3 on the standard scale].

Annotations:

F7 1984 NI 3

Forfeiture of licences for certain offences

14.—(1) A licence under section 117(1)^{F8} of the Customs and Excise Act 1952 for the sale of methylated spirits by retail, held by any person who is convicted of an offence to which this paragraph applies, shall, in addition to any other penalty, forfeiture or term of imprisonment which the court may impose, be annulled, unless the court by which the conviction has been made is satisfied that, by reason of the existence of extenuating circumstances in connection with the offence, the licence ought not to be annulled.

(2) The court by which a conviction mentioned in paragraph (1) has been made shall record in its order either the annulment of the licence or, as the case may be, the extenuating circumstances.

(3) The offences to which paragraph (1) applies are—

- (a) the selling of methylated spirits without being duly licensed or authorised in that behalf; and
- (b) any offence under section 16, 17, 19, 22, 23, 24, 25, 27 or 28 of the Illicit Distillation (Ireland) Act 1831 .

Annotations:

F8 1979 c. 4

PART V

MISCELLANEOUS AND GENERAL

Evidence in, and commencement of proceedings for, certain offences

15.—(1) In any proceedings for a contravention of this Order, a document purporting to be a certificate signed by a public analyst, and stating the result of an analysis made by him, shall be admissible as evidence of the matters stated therein, but any party to the proceedings may require the person by whom the analysis was made to be called as a witness.

(2) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under Article 7(8) or 10(1) may be commenced at any time within the period of twelve months next after the date of the commission of the offence.

Poisons Inspectors, etc.

16.—(1) The Department may appoint one (or, subject to the approval of the Department of Finance, more than one) fit and proper person (being a registered pharmacist) as a Poisons Inspector for the purposes of this Order (“the Poisons Inspector”).

(2) The Poisons Inspector shall discharge such duties as may be assigned to him by the Department and the duties so assigned may include the duty of taking all reasonable steps to enforce the provisions of Article 11 and to secure compliance, by pharmacists, persons carrying on a retail pharmacy business and persons registered by a district council under Article 7, with the provisions of Articles 5, 7 and 8 and regulations under Article 9.

(3) The Poisons Inspector, on producing his authority (if requested to do so), may—

- (a) for the purposes of enforcing the provisions of Article 11 and of securing compliance with the provisions of Articles 5, 7 and 8 and of regulations under Article 9 by such persons as are mentioned in paragraph (2), enter, at all reasonable times, any registered pharmacy or any premises in respect of which a person's name is entered in a district council's register; and
- (b) for the purpose of securing compliance with the said provisions by persons other than those mentioned in paragraph (2), enter any premises in which he has reasonable cause to suspect that an offence has been committed in relation to any substances included in Part I or Part II of the Poisons List;

and, in any such case, the Poisons Inspector may make such examination and inquiry and do such other things (including the taking, on payment therefor, of samples) as may be necessary for ascertaining whether the provisions aforesaid are being complied with.

(4) If any person—

- (a) wilfully delays or obstructs the Poisons Inspector in the exercise of any powers under this Article; or
- (b) refuses to allow any sample to be taken in accordance with the provisions of this Article; or
- (c) fails without reasonable excuse to give any information which he is duly required under this Article to give;

such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F9} level 3 on the standard scale].

(5) Nothing in paragraphs (1) to (4) shall authorise the Poisons Inspector to enter or inspect the premises, not being a shop, of a duly qualified medical practitioner, a registered dentist or a registered veterinary surgeon.

(6) The divisional commander of each police division shall report to the Poisons Inspector any offence against the provisions of Part III committed within his division.

Annotations:

F9 1984 NI 3

Art. 17(1), with Schedule 2, effects amendments; para. (2), with Schedule 3, effects repeals

SCHEDULES

SCHEDULE 1

Article 3.

CONSTITUTION OF THE POISONS BOARD

1. The Poisons Board shall consist of a Chairman appointed by the Head of the Department, the Poisons Inspector and other members so appointed as follows—
 - (a) three persons appointed after consultation with the Council of the Pharmaceutical Society of Northern Ireland;
 - (b) two persons appointed after consultation with the Faculty of Medicine of the Queen's University of Belfast;
 - (c) one person appointed after consultation with the Department of Agriculture;
 - (d) one person appointed after consultation with the Council of the Royal Institute of Chemistry;
 - (e) such other persons, not exceeding four, as the Head of the Department thinks fit.
- 2.—(1) The term of office of members of the Poisons Board shall be three years or such other period as may be specified by the Head of the Department at the time the appointments are made.
(2) The term of office of the Chairman shall be at the discretion of the Head of the Department.
3. Where the place of a member becomes vacant before the expiration of his term of office whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the Head of the Department, and any person so appointed shall hold office for the remainder of the term of office of the former member.
4. A person shall, on ceasing to hold the office of Chairman or the office of member, be eligible for re-appointment.
5. The proceedings of the Poisons Board or of any committee thereof shall not be invalidated by any vacancy in the membership of the Board or committee or by any defect in the appointment of any person acting as Chairman or any of its members.
6. The quorum of the Poisons Board shall be seven, but, subject thereto and to such rules, if any, as the Head of the Department may prescribe, the Board may regulate its own procedure, and appoint such sub-committees and assign to them such functions as it thinks fit.

Schedule 2 — Amendments

Schedule 3 — Repeals

Changes to legislation:

There are currently no known outstanding effects for the Poisons (Northern Ireland) Order 1976.