



# Poisons Act 1972

## 1972 CHAPTER 66

An Act to consolidate certain enactments relating to poisons. [9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Poisons Board**

- (1) There shall continue to be an advisory committee, called the Poisons Board, which shall be constituted in accordance with the provisions of Schedule 1 to this Act.
- (2) The procedure of the Poisons Board shall (subject to any regulations made by the Board with the approval of the Secretary of State) be such as the Board may determine.

### **2 Poisons List**

- (1) The list of substances treated as poisons for the purposes of the Pharmacy and Poisons Act 1933 shall continue to have effect for the purposes of this Act.
- (2) The Secretary of State may from time to time, after consultation with or on the recommendation of the Poisons Board, by order amend or vary the list referred to in subsection (1) above as he thinks proper; and in this Act the list as in force for the time being is referred to as "the Poisons List".
- (3) The Poisons List shall be divided into two parts, as follows—
  - Part I shall consist of those substances which, where they are non-medicinal poisons, are by virtue and subject to the provisions of this Act to be prohibited from being sold except by a person lawfully conducting a retail pharmacy business;
  - Part II shall consist of those substances which, where they are non-medicinal poisons, are by virtue and subject to the provisions of this Act to be prohibited from being sold except by a person lawfully conducting a retail pharmacy business or by a person whose name is entered in a local authority's list.

- (4) In determining the distribution of poisons as between Part I and Part II of the Poisons List, regard shall be had to the desirability of restricting Part II to articles which are in common use, or likely to come into common use, for purposes other than the treatment of human ailments, and which it is reasonably necessary to include in Part II if the public are to have adequate facilities for obtaining them.

### 3 Regulation of sale of poisons

- (1) Subject to the provisions of this Act, it shall not be lawful—
- (a) for a person to sell 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, and
    - (ii) the sale is effected on premises which are a registered pharmacy, and
    - (iii) the sale is effected by, or under the supervision of, a pharmacist;
  - (b) for a person to sell 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 local authority's list in respect of the premises on which the poison is sold;
  - (c) for a person to sell 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, and
    - (ii) in the case of a preparation which contains a poison as one of its ingredients, with the prescribed particulars as to the proportion which the poison contained in the preparation bears to the total ingredients, and
    - (iii) with the word "poison" or other prescribed indication of the character of the article, and
    - (iv) with the name of the seller of the poison and the address of the premises on which it is sold.
- (2) Subject to the provisions of this Act—
- (a) it shall not be lawful to sell any non-medicinal poison which is a substance included in Part I of the Poisons List to any person unless that person is either—
    - (i) certified in writing in the prescribed manner by a person authorised by the Poisons Rule to give a certificate for the purposes of this section, or
    - (ii) known by the seller or by a 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 prescribed form the date of the sale, the name and address of the purchaser and of the person (if any) by whom the certificate required under paragraph (a) above was given, the name

and quantity of the article sold, and the purposes for which it is stated by the purchaser to be required, and  
(ii) the purchaser has signed the entry.

(3) Subject to the provisions of this Act, it shall not be lawful for a non-medicinal poison to be exposed for sale in, or to be offered for sale by means of, an automatic machine.

#### **4 Exclusion of sales by wholesale and certain other sales**

Except as provided by the Poisons Rules, nothing in subsections (1) and (2) of section 3 of this Act shall extend to or interfere with—

- (a) the sale of poisons by way of wholesale dealing;
- (b) the sale of poisons to be exported to purchasers outside the United Kingdom;
- (c) the sale of an article to a doctor, dentist, veterinary surgeon or veterinary practitioner for the purpose of his profession;
- (d) the sale of an article for use in or in connection with any hospital, infirmary, dispensary or similar institution approved by an order, whether general or special, of the Secretary of State ; or
- (e) the sale of an article 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 in their trade or business to—
  - (i) a person who requires the article for the purpose of his trade or business, or
  - (ii) a person who requires the article for the purpose of enabling him to comply with any requirements made by or in pursuance of any enactment with respect to the medical treatment of persons employed by him in any trade or business carried on by him, or
  - (iii) a government department or an officer of the Crown requiring the article for the purposes of the public service, or any local authority (whether a local authority as defined in this Act or not) requiring the article in connection with the exercise by the authority of any statutory powers, or
  - (iv) a person or institution concerned with scientific education or research, if the article is required for the purposes of that education or research.

#### **5 Lists of persons entitled to sell poisons in Part II of Poisons List**

- (1) Every local authority shall keep for the purposes of this Act a list of persons as being persons entitled, on premises in respect of which their names are entered in the list, to sell non-medicinal poisons which are substances included in Part II of the Poisons List.
- (2) Subject to the provisions of this Act, a local authority shall enter in the list kept by the authority under this section the name of any person who, having premises in the area of the authority, makes an application to the authority in the prescribed form to have his name entered in the list in respect of those premises.
- (3) A local authority may refuse to enter in, or may remove from, the list kept by the authority under this section the name of any person who fails to pay the prescribed fees, or who in the opinion of the authority is, for any sufficient reason relating either to him personally or to his premises, not fit to be on the list.

- (4) If any person is aggrieved by the refusal of a local authority to enter his name in the list kept by the authority under this section or by the removal under this section of his name from the list, he may appeal against the refusal or removal to the Crown Court.
- (5) In this section, " relating to him personally " means, in relation to a body corporate, relating personally to the members of the board, or to the managers or other officers of the body corporate.
- (6) In the application of this section to Scotland—
  - (a) an appeal under subsection (4) shall be made in accordance with Act of Sederunt to the sheriff within whose jurisdiction the appellant's place of business is situate;
  - (b) subsection (5) shall have effect as if the references to a body corporate included references to a firm, and, in relation to a firm, as if the reference to the members of the board were a reference to the partners.

## **6 Supplementary provisions as to local authorities' lists**

- (1) A local authority's list shall—
  - (a) include particulars of the premises in respect of which the name of any person is entered in the list;
  - (b) subject to paragraph (a) above, be in such form as may be prescribed ; and
  - (c) be open at all reasonable times to the inspection of any person without fee.
- (2) A person whose name is entered in a local authority's list shall pay to the local authority such fees as may be prescribed in respect of—
  - (a) the entry of his name in the list,
  - (b) the making of any alteration in the list in relation to the premises in respect of which his name is entered, and
  - (c) the retention of his name on the list in any year subsequent to the year in which his name is first entered in it (and for this purpose " year " means a period of twelve months beginning on such date as the local authority may from time to time determine).
- (3) If any person whose name is entered in a local authority's list is convicted before any court of any offence which, in the opinion of the court, renders him unfit to have his name on the list, the court may, as part of the sentence, order his name to be removed from the list and direct that he shall, for such period as may be specified in the order, be disqualified for having his name entered in any local authority's list.
- (4) It shall not be lawful for any person whose name is entered in a local authority's list to use in connection with his business any title, emblem or description reasonably calculated to suggest that he is entitled to sell any poison which he is not entitled to sell; and if any person acts in contravention of this subsection he shall be liable on summary conviction, in respect of each offence, to a fine not exceeding £20 and, in the case of a continuing offence, to a further fine not exceeding £5 for every day subsequent to the day on which he is convicted of the offence during which the contravention continues.

## 7 Poisons Rules

- (1) The Secretary of State may, after consultation with or on the recommendation of the Poisons Board, make rules with respect to any of the following matters or for any of the following purposes:—
  - (a) the sale, whether wholesale or retail, or the supply of non-medicinal poisons, by or to any persons or classes of persons and in particular but without prejudice to the generality of the foregoing provisions—
    - (i) for regulating or restricting the sale or supply of non-medicinal poisons by persons whose names are entered in a local authority's list and for prohibiting the sale of any specified non-medicinal poison or class of non-medicinal poisons by any class of such persons ; and
    - (ii) for dispensing with or relaxing with respect to non-medicinal poisons any of the preceding provisions of this Act relating to the sale of non-medicinal poisons;
  - (b) the storage, transport and labelling of non-medicinal poisons;
  - (c) the containers in which non-medicinal poisons may be sold or supplied;
  - (d) the addition to non-medicinal poisons of specified ingredients for the purpose of rendering them readily distinguishable as non-medicinal poisons ;
  - (e) the compounding of non-medicinal poisons, and the supply of non-medicinal poisons on and in accordance with a prescription duly given by a doctor, a dentist, a veterinary surgeon or a veterinary practitioner;
  - (f) the period for which any books required to be kept for the purposes of this Act are to be preserved;
  - (g) the period for which any certificate given under section 3 of this Act is to remain in force ;
  - (h) for prescribing anything which is by this Act to be prescribed by rules.
- (2) The power to make rules under this section with respect to non-medicinal poisons includes power to make rules with respect to any class of non-medicinal poisons or any particular non-medicinal poison.
- (3) The Secretary of State may issue to the Poisons Board a direction that the power of the Board to make recommendations as to the making of rules with respect to the matters or for the purposes specified in paragraphs (a)(i), (b), (c) and (d) of subsection (1) above shall not be exercised except after consultation with such body of persons as is specified in the direction, being a body which is, in his opinion, representative of persons engaged in the manufacture of poisons or preparations containing poisons, and the Board shall comply with any such direction.
- (4) The Secretary of State may from time to time revoke or vary any direction issued under subsection (3) above, without prejudice to the issue of a new direction.

## 8 Penalties

- (1) A person who acts in contravention of or fails to comply with any of the preceding provisions of this Act (other than section 6(4)) or with the Poisons Rules shall, on summary conviction, be liable in respect of each offence to a fine not exceeding £50, and, in the case of a continuing offence, to a further fine not exceeding £10 for every day subsequent to the day on which he is convicted of the offence during which the contravention or default continues.

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- (2) In the case of proceedings against a person under this section for or in connection with the sale, exposure for sale or supply of a non-medicinal poison effected by an employee—
- (a) it shall not be a defence that the employee acted with out the authority of the employer, and
  - (b) any material fact known to the employee shall be deemed to have been known to the employer.
- (3) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of twelve months next after the date of the commission of the offence or, in the case of proceedings instituted by, or by the direction of, the Secretary of State, either within that period or within the period of three months next after the date on which evidence sufficient in the opinion of the Secretary of State to justify a prosecution for the offence comes to his knowledge, whichever period ends on the later date.

For the purposes of this subsection, a certificate purporting to be signed by the Secretary of State as to the date on which such evidence came to his knowledge shall be conclusive evidence thereof.

- (4) A document purporting to be a certificate signed by—
- (a) a public analyst appointed under section 89 of the Food and Drugs Act 1955 or section 27 of the Food and Drugs (Scotland) Act 1956, or
  - (b) a person appointed by the Secretary of State to make analyses for the purposes of this Act,

stating the result of an analysis made by him, shall be admissible in any proceedings under this Act as evidence of the matters stated therein ; but either party may require the person by whom the analysis was made to be called as a witness.

- (5) In the application of this section to Scotland, subsection (3) shall have effect as if for the references to the Secretary of State there were substituted references to the Lord Advocate.

## **9 Inspection and enforcement**

- (1) It shall be the duty of the Pharmaceutical Society of Great Britain (in this section referred to as " the Society ") to take all reasonable steps by means of inspection and otherwise—
- (a) to enforce the provisions of subsections (2) and (3) of section 20 of the Pharmacy Act 1954 (offences relating to certificates), and
  - (b) to secure compliance by pharmacists and persons carrying on a retail pharmacy business with the preceding provisions of this Act and with the Poisons Rules;

and the Society shall for that purpose appoint such number of inspectors as the Privy Council may direct.

- (2) A person shall not be qualified for appointment by the Society as inspector under this section unless he is a pharmacist, and every such appointment shall be subject to the approval of the Privy Council.

- (3) A person appointed by the Society as inspector under this section shall hold office subject to such conditions with respect to salary and otherwise as the Council of the Society may with the approval of the Privy Council determine.
- (4) An inspector appointed by the Society under this section—
- (a) shall, for the purpose of enforcing the provisions of subsections (2) and (3) of section 20 of the Pharmacy Act 1954 and for securing compliance by pharmacists and persons carrying on a retail pharmacy business with the preceding provisions of this Act and with the Poisons Rules, have power at all reasonable times to enter any registered pharmacy, and
  - (b) shall, for the purpose of securing compliance by other persons with the preceding provisions of this Act and with the Poisons Rules, so far as those provisions and Rules relate to substances included in Part I of the Poisons List, have power to enter any premises in which he has reasonable cause to suspect that a breach of the law has been committed in relation to any such substances, and in either case shall have power to make such examination and inquiry and to do such other things (including the taking, on payment, of samples) as may be necessary for ascertaining whether those provisions and Rules are being complied with.
- (5) It shall be the duty of every local authority by means of inspection and otherwise to take all reasonable steps—
- (a) to secure compliance by persons, not being persons lawfully conducting a retail pharmacy business, with the preceding provisions of this Act and with the Poisons Rules so far as those provisions and Rules relate to substances included in Part II of the Poisons List, and
  - (b) to secure compliance with those provisions and Rules by persons lawfully conducting a retail pharmacy business, in so far as that business is carried on at premises which are not a registered pharmacy,
- and for those purposes to appoint inspectors; and an inspector appointed by the Society in pursuance of subsection (1) above may, with the consent of the Society, be appointed by a local authority to be also an inspector for the purposes of this subsection.
- (6) An inspector appointed by the local authority shall, for the purposes of subsection (5) above, have power at all reasonable times to enter any premises on which any person whose name is entered in a local authority's list carries on business, and any premises on which the inspector has reasonable cause to suspect that a breach of the law has been committed in respect of any substances included in Part II of the Poisons List, and in either case shall have power to make such examination and inquiry and to do such other things (including the taking, on payment, of samples) as may be necessary for the purposes of the inspection.
- (7) An inspector appointed by a local authority in England or Wales for the purposes of subsection (5) above shall have power with the consent of the local authority to institute proceedings under this Act before a court of summary jurisdiction in the name of the authority, and to conduct any proceedings so instituted by him notwithstanding that he is not of counsel or a solicitor.
- (8) If a person—
- (a) wilfully delays or obstructs an inspector in the exercise of any powers under this section, or
  - (b) refuses to allow any sample to be taken in accordance with the provisions of this section, or

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(c) fails without reasonable excuse to give any information which he is duly required under this section to give,  
he shall in respect of each offence be liable on summary conviction to a fine not exceeding £5.

(9) Nothing in this section shall authorise any inspector to enter or inspect the premises, not being a shop, of a doctor, a dentist, a veterinary surgeon or a veterinary practitioner.

## 10 Orders and rules

(1) Any power to make orders or rules under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) If the Secretary of State—

(a) by order makes amendments or variations in the Poisons List in which the Poisons Board does not concur, or

(b) makes rules under this Act in which the Poisons Board does not concur,

he shall, together with the statutory instrument containing the order or rules, lay before each House of Parliament a statement of his reasons for making the order or rules.

## 11 Interpretation

(1) In this Act " 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 by section 130 of the Medicines Act 1968, nor

(b) a substance in relation to which, by virtue of an order under section 104 or section 105 of that Act for the time being in force (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 sections 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.

(2) In this Act, unless the context otherwise requires, the following expressions have the following meanings, that is to say—

" the board " means, in relation to a body corporate, the persons controlling that body, by whatever name called;

" dentist " means a person registered in the dentists register kept under the Dentists Act 1957 or a body corporate (or, in Scotland, a firm) entitled to carry on the business of dentistry;

" doctor " means a fully registered person within the meaning of the Medical Act 1956 ;

" local authority " means—

(a) in relation to England and Wales, the council of a county, county borough or London borough or the Common Council of the City of London, and

(b) in relation to Scotland, a county council or town council of a large burgh within the meaning of the Local Government (Scotland) Act 1947 (and all other burghs shall be deemed to be within the county);

" local authority's list " means a list kept by a local authority under section 5 of this Act;



" person lawfully conducting a retail pharmacy business " shall be construed in accordance with section 69 of the Medicines Act 1968;

" pharmacist " means a person registered in the register of pharmaceutical chemists established in pursuance of the Pharmacy Act 1852 and maintained in pursuance of section 2(1) of the Pharmacy Act 1954 ;

" Poisons Rules " means rules made by the Secretary of State under section 7 of this Act;

" prescribed " means prescribed by the Poisons Rules;

" registered pharmacy " has the meaning assigned to it by section 74 of the Medicines Act 1968;

" retail pharmacy business " has the meaning assigned to it by section 132(1) of the Medicines Act 1968;

" sale by way of wholesale dealing " means sale to a person who buys for the purpose of selling again;

" veterinary practitioner " means a person registered in the supplementary veterinary register kept under section 8 of the Veterinary Surgeons Act 1966 ;

" veterinary surgeon " means a person registered in the register of veterinary surgeons kept under section 2 of the Veterinary Surgeons Act 1966.

## **12 Repeals and consequential provisions**

- (1) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) In section 24(1) of the Pharmacy Act 1954, for the definition of " the Pharmacy Acts " there shall be substituted the following definition—

“ the Pharmacy Acts ' means the Act of 1933, the Pharmacy Act 1954, sections 77 and 84(1) of the Medicines Act 1968 and the Poisons Act 1972, and includes rules made under Part III of the Act of 1933 or under section 7 of the Poisons Act 1972”.
- (3) Nothing in subsection (2) above or in section 13 of this Act shall be taken to exclude the general application to this Act of section 38 of the Interpretation Act 1889 (which relates to repeals).

## **13 Commencement and transitional provisions**

- (1) This Act shall come into operation immediately after all the amendments of and repeals in the Pharmacy and Poisons Act 1933 made respectively by Schedule 5 and Schedule 6 to the Medicines Act 1968 have been brought into operation by order under section 136 of the said Act of 1968.
- (2) Nothing in this Act shall affect the power conferred by subsection (4) of section 136 of the Medicines Act 1968 to make transitional provision by an order under that section, and this Act shall have effect subject to any such order so far as may be necessary for preserving its effect.
- (3) Subject to subsection (2) above, in so far as any instrument made or other thing done under any enactment repealed by this Act could have been made or done under a corresponding provision in this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made or done under that corresponding provision.

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- (4) Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.
- (5) Where an offence has been committed under section 24(1) of the Pharmacy and Poisons Act 1933, proceedings may be taken under section 8 of this Act in respect of the continuance of the offence after the commencement of this Act as if the offence had been committed under the said section 8.
- (6) Where any Act or document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, so far as may be necessary for preserving its effect, be construed as, or as including, a reference to the corresponding provision of this Act.

#### **14 Short title and extent**

- (1) This Act may be cited as the Poisons Act 1972.
- (2) This Act shall not extend to Northern Ireland.

## SCHEDULES

### SCHEDULE 1

Section 1.

#### CONSTITUTION OF POISONS BOARD

- 1 The Board shall, subject to paragraph 2 below, consist of sixteen members.
- 2 The Secretary of State may from time to time if he thinks fit appoint up to three additional members of the Board.
- 3 The Board shall be composed of the following persons, namely:—
  - One person appointed by the Secretary of State for the Home Department;
  - One person appointed by the Secretary of State for Scotland;
  - Two persons appointed by the Secretary of State for Social Services;
  - One person appointed by the Minister of Agriculture, Fisheries and Food;
  - The person who is for the time being the Government Chemist or in his absence a member of his staff nominated by him;
  - Five persons appointed by the Council of the Pharmaceutical Society of Great Britain, of whom one shall be a person engaged in the manufacture for sale by way of wholesale dealing of pharmaceutical preparations;
  - One person appointed by the Royal College of Physicians of London;
  - One person appointed by the Royal College of Physicians of Edinburgh;
  - One person appointed by the General Medical Council; One person appointed by the Council of the Royal Institute of Chemistry;
  - One person appointed by the British Medical Association;
  - The additional members, if any, appointed by the Secretary of State.
- 4 Such member of the Board as the Secretary of State may appoint shall be the Chairman.
- 5 The appointed members of the Board shall hold office for a term of three years.
- 6 If the place of an appointed member of the Board becomes vacant before the expiration of his term of office, whether by death, resignation or otherwise, the vacancy shall be filled by a person appointed by the body or person by whom the vacating member was appointed, and any person appointed to fill a casual vacancy shall hold office so long only as the member to whose place he was appointed would have held office.
- 7 Any appointed member ceasing to be a member of the Board shall be eligible for re-appointment.
- 8 The powers of the Board may be exercised notwithstanding any vacancy among its members.
- 9 The quorum of the Board shall be eleven.

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## SCHEDULE 2

Section 12.

## ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
23 & 24 Geo. 5. c. 25.	The Pharmacy and Poisons Act 1933.	Parts II and III. Schedule 2.
11 & 12 Geo. 6. c. 52.	The Veterinary Surgeons Act 1948.	Section 23(a). In Schedule 2, paragraph 1.
2 & 3 Eliz. 2. c. 61.	The Pharmacy Act 1954.	In Schedule 3, the amendments of sections 25 and 29 of the Pharmacy and Poisons Act 1933.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	In Schedule 7, in Part II, the entries relating to the Pharmacy and Poisons Act 1933.
1963 c. 33.	The London Government Act 1963.	Section 62(1)(c).
1968 c. 67.	The Medicines Act 1968.	In Schedule 5, paragraphs 2 to 9.
1971 c. 23.	The Courts Act 1971.	In Schedule 9, the entry relating to the Pharmacy and Poisons Act 1933.