

POISONS BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Poisons Act 1934 and its amendments.

This Bill is however much wider in its scope than the existing legislation. Many changes have been made and many new provisions have been included.

References to the existing statutory law are shown as footnotes to the clauses in the Bill, and a table at the end of this note indicates which of the existing provisions have been omitted and shows where the others are to be found in the Bill, either in the same form or in a modified form.

The Bill is divided into Parts as follows:

- Part I—Sale and Custody of Poisons.
- Part II—Importation and Carriage of Poisons.
- Part III—Miscellaneous Provisions.

Clause 1 relates to the Short Title and commencement of the Bill.

Clause 2: Subclause (1) defines terms that are used throughout the Bill. Most of the terms defined are either new terms or terms which have been redefined. Attention is directed specifically to the following terms:

“Advertisement”. This term is a new definition. It includes spoken words if they are used to explain the use or notify the availability or promote the sale of any substance or preparation.

“Container”, “deadly poison”, “District Registrar”, “label”, “officer” “pack”, “prescription poison”, “Registrar”. These are all new definitions.

“Sale”. This term includes barter and by reference to clause 3 of the Bill also includes a disposal by way of gift, loan, or otherwise.

“Sale for extended purposes” is a term which was formerly incorporated in regulations.

“Toxic substance” is a new term with a wide meaning. It includes any substance which when swallowed is likely to be injurious to health.

Subclauses (2), (3), and (4) contain provisions required for the system of licensing proposed under this Act. Under this system licences will be personal to holders of them and they will not be issued to companies.

Clause 3 provides that the provisions of the Bill relating to the sale of any poison or poisonous substance shall, unless the context otherwise requires, apply to the disposal of any poison or poisonous substance by way of gift, loan, or otherwise. This is a new provision and it also covers the giving or distribution of any poison, in the course of business, without charge or as a sample.

Clause 4 provides for a new and wider system of grouping and classifying poisons and poisonous substances by the Governor-General, from time to time, by Order in Council. Under the Poisons Act 1934 poisons are grouped in the First, Second, and Third Schedules and poisonous substances in the Fourth Schedule to that Act. Substances can be added to and removed from those Schedules by the Governor-General from time to time by Order in Council.

Clause 5 is new and provides for the appointment of advisory and technical committees to advise the Minister.

Clause 6 is new and provides for the appointment of officers and for their remuneration.

PART I

SALE AND CUSTODY OF POISONS

Clause 7 is more specific than the corresponding provision in the existing legislation in that it prohibits the sale of any poison unless the vendor is licensed or otherwise authorised to sell that poison. It also includes a new prohibition that no person shall pack or label any poison or poisonous substance for the purposes of sale unless that person is licensed or otherwise authorised to pack or label that poison or poisonous substance.

Clause 8 is new and prohibits the sale of any poison or poisonous substance by means of any automatic vending machine.

Clause 9 is new and prohibits the unlicensed sale or hawking of any poison or poisonous substance from house to house, or in any public place within the meaning of section 40 of the Police Offences Act 1927, or in any premises other than the vendor's regular business premises. This prohibition does not extend to sales by medical practitioners, dentists, and veterinary surgeons for the treatment of patients under their care.

Clause 10 is new and prohibits the sale or supply of any poison or poisonous substance to any person, except pursuant to an order given or request made by that person, or to a written prescription signed by a medical practitioner, dentist, or veterinary surgeon. This prohibition does not extend to the supply by any medical practitioner, dentist, or veterinary surgeon in the practice of his profession and for the treatment of a patient under his care, nor to the supply by any chemist to a customer in the ordinary course of business with reference to the needs expressed by that customer.

Clause 11 is in substance a new provision. It provides who may sell any poison by wholesale or for extended purposes. It also imposes certain restrictions on such sales, other than those made by an employee of the Crown or of a local authority in the course of his employment.

In particular it prohibits the sale of any poison by wholesale or for extended purposes except to a person who is licensed or otherwise lawfully entitled to sell that poison, or to whom that poison may be sold for extended purposes.

Clause 12 is in substance a new provision. It provides who may sell any poison by retail and it also imposes restrictions in certain cases.

Clause 13 is new. It provides who may pack or label any poison or poisonous substance for the purposes of sale and it also imposes restrictions in certain cases.

Clause 14 provides for the making of applications for licences. It is in part new. Applications are to be made to the District Registrars instead of to the Registrar as at present. The three types of licence provided for are

a wholesaler's poison licence, a retailer's poison licence, and a packer's poison licence. Under the existing legislation the three types of licence are a wholesaler's poison licence, a storekeeper's poison licence, and a storekeeper's extended poison licence. The cases in which these last two types of licences have been issued can now be covered by the grant of a retailer's poison licence.

Clause 15 sets out the matters in respect of which a District Registrar must be satisfied before he can issue a licence. Important new requirements are that a District Registrar must be satisfied—

- (a) That the applicant has a sufficient knowledge of his obligations under the Act:
- (b) That the premises and equipment which the applicant proposes to use are suitable and adequate for the storage, packing, and handling of the poison or poisonous substances in which it is proposed to deal.

Rights of appeal against the decision of any District Registrar are conferred by *clause 41*.

Clause 16 is in substance a new provision. It provides the effect of each of the three types of licences which can be granted.

Clause 17 deals with the duration of licences and is in substance a new provision. The main change is that a licence must now be applied for each year. At present licences may be renewed annually.

Clause 18 is new and provides for the permanent exhibition by every licensee of his current licence.

Clause 19 re-enacts in an amended form the provisions of the existing legislation requiring the Registrar to keep a register of licences issued. The Registrar and the new District Registrars are required to keep registers of licences issued and such other registers and records as may be prescribed.

Clause 20 re-enacts in a slightly amended form the provisions of the existing legislation relating to the suspension or cancellation of licences.

Clause 21 is in substance a new provision which makes general provision regarding the containers in which any poison or poisonous substance may be packed, stored, sold, or transported in the course of any business, and the labels which such containers must bear. The provisions of the existing legislation are more detailed than those contained in this Bill. It is proposed to include all the detailed requirements in connection with these matters in regulations.

Clause 22 re-enacts in a more general form the provisions of the existing legislation relating to the keeping of records of sales of poisons. Subject to the provisions of any regulations which may be made, every person who sells any poison is required to keep such records as may be prescribed. The existing legislation only provides for records to be kept of certain retail sales. Provision for the keeping of records of certain other sales is at present contained in regulations.

Clause 23 re-enacts the provisions of the existing legislation which make it an offence for any person to have any poison or poisonous substance in his charge or possession (whether for the purposes of sale or otherwise howsoever) otherwise than in a container conforming to the relevant requirements of the Act or of any regulations made under it. It is however provided that it shall be a defence to a charge under this section if the person charged proves that at the time of the alleged offence the poison or poisonous substance was in the container in which he acquired it, and that the container bore the label borne on it when it was acquired, or that at the time of the alleged offence

the poison or poisonous substance had been necessarily removed from its container for the effective and lawful use of that poison or poisonous substance.

Clause 24 re-enacts provisions at present appearing in regulations specifying certain places where poisons and poisonous substances may not be stored, packed, or prepared for use.

Clause 25 is new and imposes restrictions on the possession of any prescription poison or any deadly poison.

Clause 26 is new and provides that every person who intends to import or manufacture or prepare for the first time any toxic substance shall, before so importing or preparing it, notify the Registrar in writing of his intention and supply him with certain particulars. This action does not have to be taken if the substance is registered or provisionally registered as an agricultural chemical under the Agricultural Chemicals Act 1959.

The Registrar may also from time to time require any importer, proprietor, or seller of any toxic substance, including an agricultural chemical, to furnish the same particulars in respect of that substance together with particulars of any sale of that substance which has taken place within the preceding three years.

All information given pursuant to these provisions must, if the person giving it so requests, be treated by the Registrar as confidential, except for certain specified purposes.

Clause 27 is new and gives the Minister power to prohibit the importation, sale, possession, or use of any specified toxic substance for a period not exceeding one year.

Clause 28 is new and provides for the control of advertisements which sellers may make relating to any substance being a poison or a poisonous substance or a toxic substance or a preparation containing any poison or poisonous substance or toxic substance.

Clause 29 is new and gives wide powers of entry and inspection to officers. Officers are also authorised to mark, seal, or otherwise secure, or impound any poison or poisonous substance and any foodstuff or stock food or any article whatsoever in certain circumstances.

Power to deal with things which have been marked, sealed, secured, or impounded, including the power to destroy them, is provided. The power of destruction is subject to certain safeguards.

Unless the Court orders otherwise under *clause 31*, the owner of the thing dealt with is liable to the Crown for the reasonable costs and expenses of any action taken. This does not affect any right of action which the owner may have against any other person.

Clause 30 is new and empowers officers to mark, seal, or otherwise secure any land or premises, or any vessel, aircraft, or vehicle or any part of any premises, vessel, aircraft, or vehicle, if they have reason to suspect that it may have been contaminated by any poison or poisonous substance or toxic substance. Where such action is taken the officer or the District Registrar must arrange decontamination or cleansing as soon as practicable. Unless the Court orders otherwise, under *clause 31*, the owner of the land, premises, vessel, aircraft, or vehicle in question is liable to the Crown for the reasonable costs and expenses of such decontamination or cleansing. This does not affect any right of action which the owner may have against any other person.

The clause also prohibits entry into or upon any land, premises, vessel, aircraft, vehicle or part thereof that has been marked, sealed, or secured, unless such entry is authorised by an officer or the Registrar, or the District Registrar, unless the entry is urgently necessary by reason of emergency.

Clause 31 is new and provides for the making of applications to a Magistrate's Court for certain orders by any person claiming any estate or interest in any real or personal property marked, sealed, secured, or impounded under clauses 29 and 30. The orders which the Court can make are specified.

Clause 32 is new and provides for the obtaining by officers of samples for the purpose of analysis from any person selling or making or packing, or using in any manufacturing, industrial, or other process, any substance, being a poison or a poisonous substance or a toxic substance.

PART II

IMPORTATION AND CARRIAGE OF POISONS

The clauses contained in this Part have been redrafted but no substantial changes have been made in the existing law.

PART III

MISCELLANEOUS PROVISIONS

Clause 38 is new and provides for the notification of the District Registrar where in any hospital under the control of a Hospital Board any person who is attended by any medical practitioner employed or engaged by the Board is found to be suffering from poisoning.

It is also provided that every Registrar of Births and Deaths who in his official capacity becomes aware that any deceased person was affected by poisoning shall notify the District Registrar of the death and of the fact that the person was so affected.

Clause 39 is new and gives any District Registrar the power to require information from any person if in his opinion there is reasonable ground for suspecting that that person is in possession of any poison or poisonous substance or toxic substance for the purpose of sale, or for the purpose of manufacturing any preparation for sale, or for use in his trade or calling, in breach of this Act or of any regulations made under this Act. Except for the purposes of carrying into effect the provisions of the Act every officer is required to maintain the secrecy of all matters which come to his knowledge in the performance of his official duties under this section.

Clause 40 is new and provides that the Registrar may, for the purpose of protecting the public, publish statements relating to any poison or poisonous substance or toxic substance or to any matter contained or implied in advertisements relating to any of the same. Such statements are privileged and there is no right of appeal from the decision of the Registrar to publish any such statement.

The Director-General of Health has somewhat similar powers under section 9 of the Medical Advertisements Act 1942 in connection with any matter contained or implied in medical advertisements.

Clause 41 is new and gives a right of appeal (except in certain specified cases) to every person who is directly affected by any decision or requirement of the Registrar or of any District Registrar.

Clause 42 is new and prohibits the publication in any "newspaper" of the name of any poison alleged to have been used or intended to be used for

a criminal purpose, or any particulars that are sufficient to identify that poison before the expiration of a period of five years from the date when the charge is finally disposed of.

Clause 43 is new and provides protection from civil or criminal proceedings for any person who does any act in pursuance or intended pursuance of any of the provisions of the Act, unless he acts in bad faith and without reasonable care.

Clause 44 is new and provides that it is an offence to wilfully obstruct, hinder, resist, or deceive any person in the execution of the powers conferred on that person by or pursuant to the Act.

Clause 45 is new and makes it an offence to abet, in New Zealand, the commission of offences under corresponding legislation in other countries. It also provides that it is an offence to do anything, in New Zealand, preparatory to or in furtherance of the commission out of New Zealand of any act which if committed in New Zealand would constitute an offence under this Act. In this second case it is a defence if the person charged proves that the act referred to was not an offence under the law of the place where it was or was to be committed.

Clause 46 re-enacts with consequential amendments the provisions of the existing legislation relating to false statements. The fine which can be imposed for this offence has however been increased from one hundred to two hundred pounds. The penalties which can now be imposed are either imprisonment for a term not exceeding three months or a fine not exceeding two hundred pounds.

Clause 47 re-enacts with consequential amendments the provisions of the existing legislation relating to failure to answer questions.

Clause 48 prescribes general offences.

Clause 49 prescribes the general penalty for offences. The penalty is now a fine not exceeding two hundred pounds (as opposed to ten pounds under the existing legislation), and if the offence is a continuing one a further fine not exceeding five pounds a day.

Clause 50 requires all offences to be dealt with summarily. It also provides that the six months period of limitation laid down by section 14 of the Summary Proceedings Act 1957 shall not apply to any prosecution for an offence against this Act.

Clause 51 re-enacts with consequential amendments the provisions of the existing legislation relating to the liability of a principal for certain acts of his agents or servants.

Clause 52 re-enacts the provisions of the existing legislation requiring particulars of the conviction of any medical practitioner, chemist, dentist, or veterinary surgeon to be notified to the appropriate registrar of the profession concerned.

Clause 53 authorises the making of regulations.

Clause 54 contains special provisions as to regulations.

Clause 55 provides that this Act shall bind the Crown, except that it shall not apply to the New Zealand Armed Forces or the members thereof while they are acting in the course of their duties.

Clause 56: Subclause (1) repeals certain enactments. *Subclause (2)* makes a consequential amendment to the Rabbits Act 1955. *Subclause (3)* is the usual savings provision.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED

THE POISONS ACT 1934 (REPRINTED 1954, VOL. II, P. 1489)

Section of Act	Clause of Bill
1	Short Title, etc.
2	2
3	4
4	7
5	11
6	12
7	14
8	15
9 (1)	17
9 (2)	11
9 (2)--(4)	16
9 (5)
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11	17
12	19
12A
13	20
14	52
15	21
16	21
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24	34
25	35
26	36
27	37
28	46
29	47
30	48, 49
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32	51
33	50
34	53
35	54 (5)
36	56

THE STATUTES AMENDMENT ACT 1950, No. 91

Section of Act	Clause of Bill
26
27	22

THE POISONS AMENDMENT ACT 1952 (REPRINTED 1954, VOL. II,
P. 1489)

Section of Act	Clause of Bill
1	Short Title, etc.
2	4
3	16
4	53
5	53
6



Hon. Mr Mason

POISONS

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3. Application of Act to disposal of poisons by way of gift, etc.
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6. Appointment of officers

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39. Powers of District Registrar to require information	46. Penalty for false statement
40. Statements by Registrar as to poisons, etc.	47. Failure to answer questions
41. Appeals	48. Offences generally
42. Restriction on publication of name of poison used for criminal purpose	49. General penalty
43. Protection of persons acting under authority of Act	50. Offences to be punishable on summary conviction
44. Obstruction of officers	51. Liability of principal for sales by agent, etc.
	52. Notification of conviction of medical practitioners, etc.
	53. Regulations
	54. Special provisions as to regulations
	55. Act to bind the Crown
	56. Repeals and savings

A BILL INTITULED

An Act to consolidate and amend certain enactments of the General Assembly relating to poisons

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5
as follows:

1. Short Title and commencement—(1) This Act may be cited as the Poisons Act 1959.

(2) Except as otherwise provided herein, this Act shall come into force on the first day of April, nineteen hundred 10
and sixty-one.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Aircraft” has the same meaning as in the Civil Aviation Act 1948: 15

“Advertisement” means any words whether written, printed, or spoken, and any pictorial representation or design or device, used to explain the use or notify the availability or promote the sale of any substance or preparation; and includes any advertisement in 20
any trade journal, any trade circular, and any label:

“Board of Health” means the Board of Health constituted under the Health Act 1956:

“Chemist” means a person for the time being registered as a pharmaceutical chemist under the Pharmacy 25
Act 1939:

“Container” includes anything in or by which poisons or poisonous substances or toxic substances may be cased, covered, enclosed, contained, or packed; and, in the case of goods sold or carried or intended for 30
sale or carriage in more than one container, includes every such container:

- “Deadly poison” means any substance declared by regulations made under this Act to be a deadly poison:
- “Dentist” means a person for the time being registered as a dentist under the Dentists Act 1936:
- 5 “District Registrar” means the Medical Officer of Health appointed under the Health Act 1956 for a health district:
- “Label” means any written, pictorial, or other descriptive matter appearing on or attached to any container containing a poison or poisonous substance or toxic substance:
- 10 “Local authority” means a Borough Council, a Town Council, a County Council, a Road Board, a Hospital Board, a Fire Board, a Harbour Board, a Drainage Board, a Catchment Board, a River Board, or a Rabbit Board:
- 15 “Medical practitioner” means a person for the time being registered as a medical practitioner under the Medical Practitioners Act 1950:
- 20 “Minister” means the Minister of Health:
- “Officer” means any officer of the Department of Health or any person appointed as an officer for the purposes of this Act:
- 25 “Pack” means to enclose in a container for the purpose of storage, distribution, or sale:
- “Poison” means any substance declared to be a poison by regulations made under this Act and includes any deadly poison and any prescription poison:
- 30 “Poisonous substance” means any substance declared by regulations made under this Act to be a poisonous substance:
- “Prescription poison” means any substance declared by regulations made under this Act to be a prescription poison which may be sold by retail only pursuant to a prescription of a medical practitioner, dentist, or veterinary surgeon:
- 35 “Registrar” means the Director of the Division of Public Hygiene for the time being appointed under the Health Act 1956:
- 40 “Sale” includes barter; and also includes offering or attempting to sell or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered or exposed for sale; and also includes any disposal to which section three of this Act applies; and “to sell”
- 45 has a corresponding meaning:

“Sale by wholesale” means in respect to the sale of any poison or any poisonous substance sale for the purposes of resale, whether in an unaltered state or otherwise, but does not include sale for extended purposes: 5

“Sale for extended purposes” means, in respect of the sale of any poison or any poisonous substance, sale for use in any scientific, educational, or commercial laboratory, or for use in any process of manufacture or trade not involving the resale of any poison or poisonous substance, but does not include sale for use in agriculture or horticulture or for the destruction of animal or insect pests: 10

“Toxic substance” means any substance, including any drug, which when swallowed, inhaled, injected into, or otherwise absorbed by the human body is likely to destroy life or is likely to be injurious to health; and includes any acaricide, insecticide, fungicide, larvicide, nematocide, pesticide, and herbicide; but does not include any substance which is a dangerous drug within the meaning of the Dangerous Drugs Act 1927, or any radioactive substance within the meaning of the Radioactive Substances Act 1949: 20

“Veterinary surgeon” means a person for the time being registered as a veterinary surgeon under the Veterinary Surgeons Act 1956, and includes a person authorised under subsection two of section thirty-three of that Act to continue to use the title or description of “veterinary practitioner” in connection with his business. 25 30

(2) For the purposes of this Act every person shall be deemed to sell any poison, or poisonous substance, or toxic substance who sells the same either on his own account or as the agent or servant of any other person or body corporate.

(3) For the purposes of this Act, a person shall not be deemed to sell any poison or poisonous substance or toxic substance if that substance is sold on his behalf by a person duly authorised under this Act to sell that substance. 35

(4) For the purposes of this Act, any person who sells any poison or poisonous substance while working under the supervision and control of the holder of a licence for the time being in force under this Act shall be deemed to be the agent or servant of the holder of the licence, and in any such case the holder of the licence shall be deemed to be the principal or employer of that person. 40 45

Cf. 1934, No. 18, s. 2; S.R. 1952/45, regs. 1 (5), 2 (1)

3. Application of Act to disposal of poisons by way of gift, etc.—(1) The provisions of this Act relating to the sale of any poison or poisonous substance shall, unless the context otherwise requires, apply to the disposal of any poison or poisonous substance by way of gift, loan, or otherwise.

(2) For the purposes of this section, the term “gift” includes the giving or distribution of any poison, in the course of business, without charge or as a sample.

Cf. S.R. 1952/45, reg. 1 (6)

4. Power to declare substances to be poisons, etc.—(1) For the purposes of this Act, the Governor-General may from time to time, by Order in Council, declare any substance—

(a) To be a poison, or a deadly poison, or a prescription poison, or any two or more of those things; or

(b) To be a poisonous substance, or to be a substance of any specified class.

(2) Any Order under this section may relate to any substance specified by its name or trade name, or to any class of substances identified by a description of that class; and any such substance or class may be identified in the Order by reference to its registration under any enactment, or to its pharmacological action, or to its use or the purpose for which it is used or intended to be used.

Cf. 1934, No. 18, s. 3; 1952, No. 28, s. 2

5. Advisory and technical committees—(1) The Minister may from time to time appoint such advisory or technical committees as he thinks fit to advise him for any of the purposes of this Act, and may from time to time determine the functions of any such committee.

(2) There may be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section remuneration by ways of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

(3) Subject to the provisions of any regulations made under this Act, every such committee may regulate its own procedure.

6. Appointment of officers—(1) There may from time to time be appointed, as officers of the Public Service, such officers as are required for the purposes of this Act. Every officer of the Department of Health appointed under the Health Act 1956 shall be deemed for the purposes of this Act to be an officer appointed under this subsection. 5

(2) The Minister may from time to time appoint any person, not being an officer of the Public Service or of any local authority, as an officer, in a part-time capacity, for the purposes of this Act. 10

(3) The Minister may from time to time, pursuant to an arrangement previously made by him with any City Council, Borough Council, Town Council, or Road Board, appoint any Health Inspector of that local authority as an officer, in a part-time capacity, for the purposes of this Act. 15

(4) Any appointment under subsection two or subsection three of this section may be made either generally for the purposes of this Act or for any specified purpose, or for the exercise of any specified power or function of an officer under this Act, or for any specified period; and may be made in respect of New Zealand generally or in respect of any specified part or parts thereof. 20

(5) There may be paid out of money appropriated by Parliament for the purpose—

(a) To any person appointed under subsection two of this section, such remuneration as may be fixed by the Minister with the concurrence of the Minister of Finance: 25

(b) To any local authority by whom any Health Inspector appointed under subsection three of this section is employed, such sum or sums in respect of his services as an officer under this Act as may be agreed upon between the Minister and the local authority, with the concurrence of the Minister of Finance. 30 35

(6) No person appointed under subsection two or subsection three of this section shall be deemed by reason of that appointment to be employed in the service of Her Majesty for the purposes of the Public Service Act 1912 or the Superannuation Act 1956. 40

PART I

SALE AND CUSTODY OF POISONS

7. Sale and packing of poisons and poisonous substances—

- (1) No person shall sell any poison unless—
- 5 (a) He is the holder of a licence for the time being in force under this Act authorising him to sell that poison; or
- (b) He is otherwise authorised by or under this Act to sell that poison.
- (2) No person shall pack or label any poison or poisonous
- 10 substance for the purposes of sale unless—
- (a) He is the holder of a licence for the time being in force under this Act authorising him to pack or label that poison or poisonous substance; or
- 15 (b) He is otherwise authorised by or under this Act to pack or label that poison or poisonous substance.
- (3) No licence or other authority shall be necessary for the sale of any poisonous substance or toxic substance which is not a poison within the meaning of this Act but every such substance shall otherwise be subject to the provisions of this
- 20 Act.

Cf. 1934, No. 18, s. 4

8. Sales by automatic vending machine prohibited—No person shall sell any poison or poisonous substance by means of any automatic vending machine.

- 25 **9. Hawking—**(1) No person shall sell or hawk any poison or poisonous substance—
- (a) From house to house; or
- (b) In any public place within the meaning of section forty of the Police Offences Act 1927; or
- 30 (c) In any premises other than his regular business premises—
- except pursuant to any authority to do so expressly conferred by a licence held by him under this Act, and in accordance with any conditions or restrictions specified in the licence.
- 35 (2) Nothing in this section shall prevent the sale of any poison or poisonous substance—
- (a) By any medical practitioner or dentist in the practice of his profession and for the treatment of a patient under his care; or
- 40 (b) By any veterinary surgeon in the practice of his profession and for the treatment of an animal under his care.

10. No sale or supply without request—(1) No person shall sell or supply any poison or poisonous substance to any other person, except pursuant to an order given or request made by that other person, or to a written prescription signed by a medical practitioner or dentist or veterinary surgeon. 5

(2) Nothing in this section shall prevent the sale or supply of any poison or poisonous substance—

- (a) By any medical practitioner or dentist in the practice of his profession and for the treatment of a patient under his care; or 10
- (b) By any veterinary surgeon in the practice of his profession and for the treatment of an animal under his care; or
- (c) By any chemist to a customer in the ordinary course of business with reference to the needs expressed by that customer. 15

11. Licence or authority to sell by wholesale or for extended purposes—(1) No person shall sell any poison by wholesale or for extended purposes unless—

- (a) He is the holder of a wholesaler's poison licence or a packer's poison licence for the time being in force under this Act, or is the agent or servant of the holder of such a licence; or 20
- (b) He is an employee of the Crown or of a local authority and the sale is made in the course of his employment. 25

(2) No person being the holder of a wholesaler's poison licence or a packer's poison licence, or being the agent or servant of the holder of any such licence, shall—

- (a) Sell any poison except pursuant to the terms of that licence: 30
- (b) Sell any poison except at the premises specified in that licence, unless it is otherwise provided in the licence:
- (c) Sell any poison except to a person who is licensed or otherwise lawfully entitled to sell that poison, or who is a person to whom that poison may be sold for extended purposes. 35

Cf. 1934, No. 18, ss. 5, 9 (2)

12. Licence or authority to sell by retail—(1) No person shall sell any poison by retail unless he is—

- (a) A chemist, or the agent or servant of a chemist; or 40
- (b) A medical practitioner; or
- (c) A dentist; or
- (d) A veterinary surgeon; or

- (e) An employee of the Crown or of a local authority, and the sale is made in the course of his employment;
or
- 5 (f) The holder of a retailer's poison licence for the time being in force under this Act, or the agent or servant of the holder of such a licence.
- (2) No chemist shall sell any poison by retail except—
- (a) In premises registered as a pharmacy under the Pharmacy Act 1939; or
- 10 (b) In the case of a chemist employed as a pharmacist in a hospital under the control of a Hospital Board or a licensed hospital within the meaning of Part V of the Hospitals Act 1957 or a licensed institution within the meaning of the Mental Health Act 1911, in the course of his employment as a pharmacist.
- 15 (3) No medical practitioner or dentist shall sell any poison except in the practice of his profession and for the treatment of a patient under his care.
- (4) No veterinary surgeon shall sell any poison except in
20 the practice of his profession and for the treatment of an animal under his care.
- (5) No person being the holder of a retailer's poison licence shall—
- 25 (a) Sell any poison except pursuant to the terms of that licence;
- (b) Sell any poison except at the premises specified in that licence, unless it is otherwise provided in the licence.
- (6) No agent or servant entitled to sell poison under this
section shall sell any poison unless that poison—
- 30 (a) Is one that his principal or employer is lawfully entitled to sell; and
- (b) Is one that the agent or servant is authorised to sell by regulations made under this Act; and
- 35 (c) Is sold by him under the direct personal supervision of his principal or employer.

Cf. 1934, No. 18, s. 6

- 13. Licence or authority to pack poisons or poisonous substances—**(1) No person shall pack or label any poison or poisonous substance for the purposes of sale unless he is, or
40 is working under the direct personal supervision of,—
- (a) A chemist; or
- (b) A medical practitioner; or
- (c) A dentist; or
- (d) A veterinary surgeon; or

- (e) An employee of the Crown or of a local authority, acting in the course of his employment; or
- (f) The holder of a packer's poison licence for the time being in force under this Act.

(2) No person being the holder of a packer's poison licence shall pack or label, or cause or permit to be packed or labelled, any poison or poisonous substance for the purposes of sale unless—

- (a) The poison or poisonous substance is one that is named or described in his licence; and
- (b) The packing or labelling is done in the premises, or the part of the premises, specified in his licence.

14. Applications for licences—(1) Every application for a wholesaler's poison licence, a retailer's poison licence, or a packer's poison licence shall be made in the prescribed form to the District Registrar for the health district in which the premises which the applicant proposes to use are situate, and shall contain the prescribed particulars and information, and shall be accompanied by the prescribed fee.

(2) No application for any such licence shall be made by any person who is under the age of twenty-one years.

(3) Any application for a licence for the period ending with the thirty-first day of March, nineteen hundred and sixty-two, may be made and dealt with in accordance with this Act at any time after the thirty-first day of January, nineteen hundred and sixty-one, but no licence issued as a result of an application so made shall take effect, or be expressed to take effect, before the commencement of this Act.

Cf. 1934, No. 18, s. 7

15. Grant of licences—(1) On receiving an application for a licence under this Act, the District Registrar shall issue a licence to the applicant if he is satisfied in respect of all the following matters:

- (a) That the requirements of section fourteen of this Act have been complied with;
- (b) That the applicant is a fit and proper person to hold the licence applied for;
- (c) That the applicant is not subject to any disqualification under section twenty of this Act;
- (d) That the applicant has a sufficient knowledge of his obligations under this Act:

- (e) That the premises and equipment which the applicant proposes to use are suitable and adequate for the storage, packing, and handling of the poisons or poisonous substances in which it is proposed to deal.
- 5 (2) Every such licence shall be in the prescribed form and shall be subject to such conditions, if any, as may be imposed pursuant to regulations made under this Act.

Cf. 1934, No. 18, s. 8

- 10 **16. Effect of licences—**(1) A wholesaler's poison licence shall authorise the licensee to sell by wholesale or for extended purposes in accordance with the terms of the licence, but not otherwise, and either in person or by his agent or servant, any poison specified in the licence or poisons of any class so specified.
- 15 (2) A retailer's poison licence shall authorise the licensee to sell by retail in accordance with the terms of the licence, but not otherwise, and either in person or by his agent or servant, any poison specified in the licence or poisons of any class so specified.
- 20 (3) A packer's poison licence shall authorise the licensee to pack and label, and to sell by wholesale, in accordance with the terms of the licence and at the premises specified in the licence or at any part of any premises so specified, and either in person or by his agent or servant working under his direct
- 25 personal supervision, any poison or poisonous substance specified in the licence, or poisons or poisonous substances of any class so specified.

Cf. 1934, No. 18, s. 9 (2)–(4) ; 1952, No. 28, s. 3

- 30 **17. Duration of licence—**Every licence under this Act shall, unless sooner terminated under this Act, continue in force until the close of the thirty-first day of March next following the date on which it was issued, and shall then expire:

Provided that—

- 35 (a) Any licence issued at any time during the months of February and March in any year shall continue in force until the close of the thirty-first day of March in the next ensuing year:
- 40 (b) Where at any time during the month of February in any year any licensee applies for a fresh licence for a further period of twelve months from the expiry

of his existing licence, and the application is not disposed of before the existing licence is due to expire, the existing licence shall continue in force until the application is disposed of.

Cf. 1934, No. 18, ss. 9 (1), 11

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18. Display of licence—Every licensee shall cause his current licence to be permanently exhibited in some conspicuous place where it can be readily seen by all persons having access to the premises to which the licence relates.

19. Registers—(1) The Registrar and every District Registrar shall keep registers of licences issued under this Act, and such other registers and records as may be prescribed.

(2) The contents of any such register may be evidenced in any proceedings by a certificate under the hand of the Registrar, or under the hand of a District Registrar in the case of any register kept by him. Every such certificate shall be prima facie evidence of the matters stated therein.

(3) A certificate under the hand of the Registrar or the District Registrar that on a date specified in the certificate the name of any person did not appear in any register as a licensee or as the holder of any permit or authority granted under any regulations made under this Act, or that on the specified date any other particulars stated in the certificate did not appear in any register shall be sufficient evidence, until the contrary is proved, of the facts stated in the certificate.

Cf. 1934, No. 8, s. 12

20. Suspension or cancellation of licence, etc.—(1) Where any person holding any licence, permit, or authority granted under this Act or under any regulations made under this Act is convicted of any offence against this Act or against any such regulations, the Court—

(a) May, if it thinks fit, order that the licence, permit, or authority be suspended for such time as the Court orders, or that it be cancelled, and may also, if it thinks fit, declare that person to be disqualified to hold any such licence, permit, or authority for such time as the Court orders; and

(b) Shall cause particulars of the conviction, and of any order made under this subsection, to be endorsed on the licence, permit, or document of authority, and shall cause a copy of those particulars to be sent to the District Registrar, who shall thereupon note the same on the appropriate register.

(2) Any licence or other document required by the Court for endorsement under this section shall be produced, in such manner and within such time as the Court directs, by the person by whom it is held.

5 (3) Every person commits an offence against this Act who, without reasonable cause, fails to produce any licence or other document required as aforesaid.

Cf. 1934, No. 18, s. 13

10 **21. Containers**—(1) Subject to the provisions of any regulations made under this Act, no person shall, in the course of any business, pack, store, sell, or cause to be transported any poison or poisonous substance unless it is in a container that—

(a) Is impervious to the poison or poisonous substance; and

15 (b) Is so constructed that it can be readily and effectively resealed after any portion of the contents has been used; and

(c) Is of the prescribed character or type; and

(d) Is labelled in the prescribed manner.

20 (2) Notwithstanding anything in paragraph (b) of subsection one of this section, where the container bears a label with directions to the effect that the whole of the contents must be used immediately on opening, and the quantity and nature of the contents are such that it is unlikely that less than the whole of the contents will be used on any one
25 occasion, the container need not be of a type that can be readily and effectively resealed.

Cf. 1934, No. 18, ss. 15, 16

30 **22. Records of sales**—(1) Subject to the provisions of any regulations made under this Act, every person who sells any poison shall keep, in some place of security at his place of business, such records as may be prescribed; and shall keep every such record for a period of not less than three years from the date of the making thereof, or, in the case of a book containing more than one such record, from the date of the
35 last entry in that book.

(2) Every such record shall be open to inspection at all times by any officer, or by any member of the Police, who may make such copies thereof as he thinks fit.

40 (3) Every person commits an offence against this Act who contravenes or fails to comply in any respect with any of the provisions of this section, or who obstructs or hinders any such inspection as aforesaid.

Cf. 1934, No. 18, ss. 18, 19, 20, 21

Possession of Poisons and Poisonous Substances

23. Custody of poisons and poisonous substances—(1) Every person commits an offence against this Act who has any poison or poisonous substance in his charge or possession (whether for the purposes of sale or otherwise howsoever) otherwise than in a container conforming to the relevant requirements of this Act and of any regulations made under this Act. 5

(2) It shall be a defence to a charge of an offence against this section if the person charged proves that at the time of the alleged offence the poison or poisonous substance was in the container in which he acquired it, and that the container bore the label borne on it when it was acquired, or that at the time of the alleged offence the poison or poisonous substance had been necessarily removed from its container for the effective and lawful use of that poison or poisonous substance. 10 15

Cf. 1934, No. 18, s. 22; S.R. 1952/45, reg. 6 (7)

24. Storage of poisons and poisonous substances—(1) No person in possession or charge of any poison or poisonous substance shall put it in any cupboard, box, shelf, or other place of storage in which articles of food or drink are stored or kept for ready use, or in any place to which young children or unauthorised persons have ready access. 20

(2) No person shall pack any poison or poisonous substance, or prepare it for use, in any room, or on any table or bench, that is used for the purpose of packing, preparing, or consuming any food or drink. 25

Cf. S.R. 1952/45, reg. 6 (8)

25. Restriction on possession of certain poisons—(1) No person shall be in possession of any prescription poison or any deadly poison, knowing it to be such a poison, unless he is— 30

- (a) A person licensed or otherwise authorised under this Act or any regulations made under this Act to sell it or to be in possession of it for the purposes of any business or for any prescribed purpose; or 35
- (b) A person to whom the poison, being a prescription poison, has been lawfully supplied for his use, or for use by any other person, as a patient under the care of a medical practitioner; or

- (c) A person to whom the poison, being a prescription poison, has been lawfully supplied for administration to any animal under the care of a veterinary surgeon;
or
- 5 (d) A person who has lawfully purchased or procured the poison, being a deadly poison, from a person licensed or otherwise authorised under this Act to sell it.
- (2) In any proceedings under this section against any person in which it is proved that he had in his possession any
10 prescription poison or any deadly poison, the onus of proving that he did not know that it was a prescription poison or a deadly poison, or that he was in possession of it in accordance with any of the provisions of paragraphs (a) to (d) of subsection one of this section, shall lie on the person charged.

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Toxic Substances

- 26. Information to be furnished concerning toxic substances**
—(1) Subject to the provisions of any regulations made under this Act, every person who intends to import or manufacture or prepare for the first time any toxic substance shall, before
20 so importing or manufacturing or preparing it, notify the Registrar in writing of his intention.
- (2) In addition to any such notification that person shall furnish to the Registrar the following particulars, namely:
- (a) The nature and toxicity of the substance:
25 (b) The purpose for which it is intended to be used:
(c) The method of distribution and use:
(d) Such other particulars as the Registrar may require.
- (3) It shall not be necessary to comply with subsections one and two of this section in respect of any toxic substance
30 while it is registered or provisionally registered as an agricultural chemical under the Agricultural Chemicals Act 1959, or while any application for its registration, or for the renewal of its registration, as an agricultural chemical is being dealt with under that Act.
- 35 (4) The Registrar may from time to time require any importer, proprietor, or seller of any toxic substance to furnish in respect of that substance any of the particulars specified in subsection two of this section, together with such information as he has in his possession as to the date of any sale of that
40 substance which has taken place within the preceding three years, the quantity so sold, and the names and addresses of the persons to whom it has been sold.

(5) All information given pursuant to this section shall, if the person giving it so requests, be treated by the Registrar as confidential, and shall not be disclosed by him or by any other person except for the purposes of the administration of this Act or for the purposes of any investigation or proceedings in respect of any alleged offence. 5

27. Power of Minister to prohibit importation, sale, or use of toxic substances—The Minister may from time to time, by notice in the *Gazette*, prohibit the importation, sale, possession, or use of any specified toxic substance, either absolutely or subject to such conditions as he thinks fit, for any specified period not exceeding one year. 10

General Provisions

28. Control of advertisements—(1) This section applies to— 15

(a) Any substance being a poison or a poisonous substance or a toxic substance:

(b) Any preparation containing any poison or poisonous substance or toxic substance.

(2) Every person commits an offence against this Act who, being the seller of any substance or preparation to which this section applies, or being the agent or servant of the seller, publishes or causes or permits to be published any advertisement relating, or calculated or likely to cause any other person to believe that it relates, to that substance or preparation, if the advertisement— 25

(a) Fails to make any statement required by regulations made under this Act to be made in any advertisement in respect of that substance or preparation; or

(b) Makes any statement prohibited by any such regulations; or 30

(c) Directly or by implication qualifies or is contrary to any particulars required by any such regulations to be included in any advertisement or to be included in any label borne on the substance or preparation; or 35

(d) Directly or by implication states or suggests that the substance or preparation is not poisonous, or is safe, or is harmless, or is not habit-forming.

29. Power of entry, inspection, and segregation—(1) In this section, the term “officer” means any officer under this Act, or any officer of Customs, or any member of the Police. 40

(2) Subject in the case of a dwellinghouse to the provisions of subsection seven of this section, any officer may at all reasonable times enter into and inspect any premises, land, vessel, aircraft, vehicle, or place where he has reasonable
5 ground for believing that there is any substance that is a poison or a poisonous substance or a toxic substance.

(3) Any officer may mark, seal, or otherwise secure, or impound,—

10 (a) Any poison or poisonous substance kept for sale, or for packing for the purposes of sale, on any premises in respect of which no licence for the sale or packing of that poison or substance is in force:

15 (b) Any poison or poisonous substance or toxic substance the packing or labelling of which does not in his opinion conform to the requirements of this Act or of any regulations made under this Act:

20 (c) Any poison or poisonous substance or toxic substance the container of which is damaged, if in his opinion there is a risk of leakage of the contents of the container:

(d) Any foodstuff or stock food, or any article whatsoever, if he has reason to suspect that it may be contaminated by any poison or poisonous substance or toxic substance.

25 (4) Where any thing is marked, sealed, secured, or impounded by any officer under this section, that officer or the District Registrar shall, as soon as practicable, take or cause to be taken all reasonable measures to have that thing removed to a place of security, or properly packed and labelled,
30 or cleansed or decontaminated, or destroyed, as the circumstances of the case may require:

Provided that, unless in the opinion of the officer or the District Registrar the destruction of the thing is urgently necessary for the protection of the health of the public or of
35 persons likely to be exposed to contamination, it shall not be destroyed until—

(a) In the case of an application being made to a Magistrate's Court under section thirty-one of this Act, the Court has made an order for its destruction; or

40 (b) The time for making such an application has expired without an application being made.

(5) Subject to any order made by a Magistrate's Court under section thirty-one of this Act, the reasonable costs and expenses incurred in the packing, labelling, cleansing, decontamination, or destruction of any thing under subsection four
45

of this section shall be recoverable from the owner thereof as a debt due to the Crown. Nothing in this subsection shall affect any right of action that the owner may have against any other person.

(6) Subject to any such order as aforesaid, every person 5
commits an offence against this Act who, without the authority of any officer or of the Registrar or any District Registrar, removes or interferes with any thing that has been marked, sealed, secured, or impounded under this section.

(7) Unless he has reason to believe that imminent danger 10
to the public or to any person exists, an officer shall not enter any dwellinghouse under the powers conferred by subsection two of this section, except pursuant to a warrant by a Justice issued under subsection eight of this section.

(8) Where any Justice of the Peace is satisfied on oath 15
that there is probable cause to suspect that any breach of this Act or of any regulations made under this Act has been or is being committed, or that preparation has been made to commit such a breach, within any dwellinghouse, the Justice may, by warrant under his hand, authorise an officer named 20
in the warrant together with any constable to enter and search the dwellinghouse, if necessary by force, at such time or times in the day or night as are mentioned in the warrant. Every such warrant shall continue in force until the purpose for 25
which it was granted has been satisfied.

30. Powers in respect of contaminated premises, etc.—

(1) Any officer within the meaning of section twenty-nine of 30
this Act may mark, seal, or otherwise secure any land or premises, or any vessel, aircraft, or vehicle, or any part of any premises, vessel, aircraft, or vehicle, if he has reason to suspect that it may have been contaminated by any poison or poisonous substance or toxic substance.

(2) In any such case, that officer or the District Registrar 35
shall, as soon as practicable, take or cause to be taken all reasonable measures to have the land, premises, vessel, aircraft, or vehicle, or such part as aforesaid, decontaminated or cleansed, as the circumstances of the case may require.

(3) Subject to any order made by a Magistrate's Court 40
under section thirty-one of this Act, the reasonable costs and expenses incurred in such decontamination or cleansing as aforesaid shall be recoverable from the owner of the land, premises, vessel, aircraft, or vehicle as a debt due to the Crown. Nothing in this subsection shall affect any right of action that the owner may have against any other person.

(4) Subject as aforesaid, every person commits an offence against this Act who, without the authority of any such officer or of the Registrar or any District Registrar, enters into or upon any land, premises, vessel, aircraft, vehicle, or part thereof that has been marked, sealed, or secured under this section:

Provided that it shall be a defence to a charge under this section if the person charged proves that the entry was urgently necessary by reason of an emergency.

10 **31. Magistrate's Court may order return of property or compensation—**(1) Any person claiming any estate or interest in any real or personal property marked, sealed, secured, or impounded under section twenty-nine or thirty of this Act may, within seven days thereafter, apply to a Magistrate's
15 Court for an order—

- (a) That the property shall be returned or otherwise made available to him, or that he shall have access to it for any purpose:
- 20 (b) Where he has suffered any loss or damage as a result of the cleansing, decontamination, or destruction of the property, that he shall be paid, in accordance with this section, such sum by way of compensation for that loss or damage as the Court thinks fit:
- 25 (c) That the applicant, being the owner of the property, shall be relieved from liability for the payment of the whole or any part of any costs and expenses for which he would otherwise be liable under either of the said sections.

(2) On any such application, the Court may make such
30 order as it thinks fit, and any such order may be made upon and subject to such terms and conditions as the Court thinks fit:

35 Provided that no order for the payment of compensation under this section in respect of any such loss or damage as aforesaid shall be made in any case where the Court is satisfied that the cleansing, decontamination, or destruction from which the loss or damage resulted was necessary for the protection of the health of the public or of persons likely to be exposed to contamination.

40 (3) Where the Court makes an order for the payment of any sum by way of compensation to any person under this section, the sum so awarded shall be recoverable by that person as a debt due from the Crown.

(4) Every application to the Court under this section shall be made and dealt with by way of originating application, on notice, under the rules of procedure for the time being in force under the Magistrates' Courts Act 1947, and the provisions of those rules shall apply accordingly. 5

(5) Every order made by the Court under this section shall be final and binding on all parties.

32. Procuring of samples for analysis—(1) On payment or tender to any person selling or making or packing, or using in any manufacturing, industrial, or other process, any substance, being a poison or a poisonous substance or a toxic substance, or to his agent or servant, of the current market value of the samples referred to in this section, any officer may at any place demand and select and take or obtain samples of that substance for the purpose of analysis. 10 15

(2) The officer may require any such person or his agent or servant, to show and permit the inspection of the container in which the substance is at the time kept, and to take therefrom the sample demanded, and to copy therefrom particulars of the labelling. 20

(3) Where any such substance is kept for retail sale in an unopened container, no person shall be required by any officer to sell less than the whole of the contents of the container.

(4) Every person commits an offence against this Act who refuses or neglects to comply with any demand or requisition made by an officer pursuant to this section, unless he proves that he had no knowledge or reason to believe that the sample demanded was required for the purposes of analysis. 25

(5) For the purposes of this section, every person who is in possession of any such substance as aforesaid which in the opinion of the officer is intended for sale shall, until the contrary is proved, be deemed to be the seller thereof or, as the case may be, the agent or servant of the seller. 30

PART II

35

IMPORTATION AND CARRIAGE OF POISONS

33. Interpretation—In this Part of this Act—

“Aerodrome” has the same meaning as in the Civil Aviation Act 1948:

“Carrier” includes every person engaged in carrying goods for hire or reward by any means, and whether by land, water, or air: 40

“Minister” means the Minister of Customs:

“Officer of Customs” means any person employed in the service of the Customs:

“Ship” means any vessel used in navigation and not propelled by oars:

- 5 “Warehouse owner” includes every person owning, managing, or controlling any warehouse, store, wharf, quay, aerodrome, or other place or premises in or on which goods are deposited.

Cf. 1934, No. 18, s. 23

- 10 **34. Packing of imported poisons, etc.**—(1) Every poison or poisonous substance imported into New Zealand by any person shall be strongly and securely packed to the satisfaction of the Minister or in the prescribed manner.

- 15 (2) The obligation to comply with the requirements of this section shall lie on the person importing or causing to be imported that poison or poisonous substance.

Cf. 1934, No. 18, s. 24

- 35. Ships or aircraft arriving with certain poisons on board**—(1) This section applies only to such poisons or 20 poisonous substances as may for the time being be prescribed in that behalf by regulations made under this Act.

(2) When any ship or aircraft arrives in New Zealand having on board any poison or poisonous substance to which this section applies, the following provisions shall apply—

- 25 (a) It shall be the duty of the master of the ship or the pilot in command of the aircraft, when reporting her arrival to the Customs as required by law, to inform the Collector at the port or place of arrival in writing how many and what containers of any 30 such poison or poisonous substance are on board, and the place or position in which they are stowed:
- (b) It shall not be lawful for the master or pilot or any person to remove any such container from the ship or aircraft until an officer of Customs has viewed 35 and examined the container in the position where it is stowed:
- (c) That officer may inspect every such container, and for that purpose, if any such container is contained in any other case or covering of any kind, he may 40 require the case or covering to be opened:
- (d) If on such inspection it appears to the officer that any container has not been stowed apart from goods of any kind suitable for the food of man or animals, and that by reason thereof or of breakage or leakage

or from any other cause there is reasonable ground in his judgment, or in that of any skilled person whom he calls to his assistance, for believing that in any manner whatsoever the contents of any such container may have become mixed with or may have contaminated or injuriously affected any such goods, he shall refuse to allow such goods to be landed: 5

(e) For the purposes of this section every officer of Customs shall have and may exercise all such powers and authorities as he might exercise under the provisions of the Customs Act 1913 in respect of goods imported into New Zealand from beyond the seas. 10

(3) If the master or pilot or any other person commits or allows to be committed any breach of this section, he shall be deemed to have committed an offence against this Act. 15

Cf. 1934, No. 18, s. 25

36. Valuation and forfeiture of goods not allowed to be landed—(1) The Minister may direct such steps as he thinks fit to be taken for the valuation of any goods which, under section thirty-five of this Act, are not allowed to be landed; and the value so ascertained together with all costs and expenses of the valuation, including the cost of the assistance of any skilled person, shall be recoverable as a debt jointly and severally due to the Crown by the master or pilot and owners of the ship or aircraft. 20 25

(2) All such goods shall be forfeited to Her Majesty the Queen, and may be disposed of in such manner as the Minister directs, whether any person is liable to be convicted of an offence against this Act or not.

(3) The value of such goods, if and when ascertained and recovered as hereinbefore provided, shall be paid to the owner of the goods or other person lawfully entitled thereto out of money appropriated by Parliament for the purpose. 30

Cf. 1934, No. 18, s. 26

37. Sending or carrying poison under false description— Every person commits an offence against this Act who knowingly sends or attempts to send by or carries or attempts to carry in any ship or aircraft, or sends or delivers to any warehouse owner or carrier, any poison or poisonous substance under a false description, or falsely describes the sender or carrier thereof, or who knowingly causes or assists in the commission of any such act. 35 40

Cf. 1934, No. 18, s. 27

PART III

MISCELLANEOUS PROVISIONS

38. **Notification of poisoning**—(1) Where in any hospital under the control of any Hospital Board any person who is
5 attended by any medical practitioner employed or engaged (whether in an honorary capacity or otherwise) by the Hospital Board is found to be suffering from poisoning, the Medical Superintendent or other medical officer for the time being in charge of the hospital shall forthwith give notice in
10 the prescribed form to the District Registrar.

(2) Every Registrar of Births and Deaths who in his official capacity becomes aware that any deceased person was affected by poisoning shall forthwith notify the District Registrar of the death and of the fact that the person was so
15 affected.

39. **Powers of District Registrar to require information**—

(1) If in the opinion of any District Registrar there is reasonable ground for suspecting that any person is in possession of any poison or poisonous substance or toxic substance for the
20 purpose of sale, or for the purpose of manufacturing any preparation for sale, or for use in his trade or calling, in breach of this Act or of any regulations made under this Act, the District Registrar may require that person to produce for his inspection, or to produce to any officer specially authorised
25 by the District Registrar in that behalf, any books or documents dealing with the reception, possession, purchase, sale, or delivery of any such poison, poisonous substance, toxic substance, or preparation.

(2) The District Registrar may make or cause to be made
30 copies of or extracts from any such books or documents, and the copies or extracts, certified as such by him or by any specially authorised officer, shall be deemed to be true and correct copies or extracts, unless the contrary is proved.

(3) Every person commits an offence against this Act who
35 refuses or neglects to comply with any requisition made pursuant to this section.

(4) Every officer commits an offence against this Act who does not maintain the secrecy of all matters which come to his knowledge in the performance of his official duties under
40 this section, or who communicates any such matter to any person, except for the purpose of carrying into effect the provisions of this Act.

40. Statements by Registrar as to poisons, etc.—(1) The Registrar may, for the purpose of protecting the public, publish statements relating to any poison or poisonous substance or toxic substance, or to any matter contained or implied in advertisements, either generally or in any particular advertisement or class or classes of advertisements, relating to any poison or poisonous substance or toxic substance. 5

(2) Every statement published under this section shall be privileged; and nothing in section forty-one of this Act shall be construed to apply in respect thereof. 10

41. Appeals—(1) Every person who is directly affected by any decision or requirement of the Registrar or of any District Registrar under this Act or any regulations made under this Act, not being a decision or requirement under section twenty-nine or section thirty of this Act, and is dissatisfied with that decision or requirement, may, within twenty-one days after notice of that decision or requirement is given to him, give notice of appeal, in writing, to the Board of Health established under the Health Act 1956. 15

(2) The Board of Health shall forthwith appoint a committee, under section eighteen of the Health Act 1956, to hear the appeal. No officer or employee of the Department of Health shall be appointed as a member of that committee. 20

(3) The parties to the appeal shall be entitled to be heard either personally or by their solicitors, counsel, or agents. 25

(4) For the purpose of hearing the appeal the committee shall be deemed to be a Commission under the Commissions of Inquiry Act 1908, and the provisions of that Act, except sections eleven and twelve (which relate to costs), shall apply as if the hearing of the appeal were an inquiry under that Act: 30

Provided that the Chairman of any such Commission may exercise all the powers of the Commission in respect of citing parties and summoning witnesses, and may do any other act preliminary or incidental to the hearing or consideration of any matter by the Commission. 35

(5) The committee may allow or dismiss any appeal wholly or in part, and may make such modifications in any decision or requirement appealed against as it thinks fit, and may make or impose any new decision or requirement in substitution for or in addition to the one appealed against. 40

42. Restriction on publication of name of poison used for criminal purpose—

(1) Where any person is charged with committing or attempting to commit or being a party in any manner whatsoever to any crime, within the meaning of the Crimes Act 1908, in the commission of which any poison is alleged to have been used or intended to be used, whether or not the accused is convicted, there shall not be published, in relation to that charge, in any newspaper at any time before the expiration of a period of five years from the date when the charge is finally disposed of—

(a) The name of that poison; or

(b) Any particulars that are sufficient to identify that poison.

(2) If the name of that poison or any such particulars as aforesaid are published in any newspaper in contravention of the provisions of this section, every person who is the printer, publisher, proprietor, manager, or editor of the newspaper shall be guilty of an offence against this Act.

(3) Nothing in this section shall be construed to limit the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to any judicial proceedings.

(4) For the purposes of this section, the term “newspaper” means any newspaper registered under the Newspapers and Printers Act 1955, or any periodical publication which is published at intervals not exceeding three months; and every document which at any time accompanies and is distributed together with any newspaper shall be deemed to form part of the newspaper:

Provided that for the purposes of this section the term “newspaper” shall not include any newspaper or periodical publication of a technical character bona fide intended for circulation among members of the legal or medical professions.

43. Protection of persons acting under authority of Act—

(1) Any person who does any act in pursuance or intended pursuance of any of the provisions of this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such act except by leave of a Judge of the Supreme Court, and such leave shall not be granted unless the Judge is satisfied that there is substantial ground for the contention that the person against whom it is sought to bring the proceedings has acted in bad faith or without reasonable care. 5

(3) Notice of any application under subsection two of this section shall be given to the person against whom it is sought to bring the proceedings, and that person shall be entitled to be heard against the application. 10

(4) Leave to bring such proceedings shall not be granted unless application for such leave is made within six months after the act complained of, or, in the case of a continuance of injury or damage, within six months after the ceasing of the injury or damage. 15

(5) In granting leave to bring any such proceedings as aforesaid, the Judge may limit the time within which such leave may be exercised.

44. Obstruction of officers—Every person commits an offence against this Act who wilfully obstructs, hinders, resists, or deceives any other person in the execution of any powers conferred on that other person by or pursuant to this Act. 20

45. Abetting offence against corresponding law of another country—(1) Every person commits an offence against this Act who, in New Zealand,— 25

(a) Aids, abets, incites, counsels, or procures the commission in any place outside New Zealand of any offence punishable under the provisions of any law corresponding to this Act and in force in that place; or 30

(b) Does anything preparatory to or in furtherance of the commission out of New Zealand of any act which if committed in New Zealand would constitute an offence against this Act. 35

(2) It is a defence to a charge under paragraph (b) of subsection one of this section if the person charged proves that the act referred to in that paragraph was not an offence under the law of the place where it was or was to be committed. 40

46. Penalty for false statement—(1) Every person commits an offence against this Act who, for the purpose of obtaining, whether for himself or any other person, the grant of any licence under this Act, or for any other purposes in relation
5 to this Act,—

- (a) Makes any declaration or statement which to his knowledge is false in any particular; or
- (b) Utters, produces, or makes use of any such declaration or statement as aforesaid or any document containing
10 the same; or
- (c) Knowingly utters, produces, or makes use of any document that is not genuine.

(2) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding
15 three months or to a fine not exceeding two hundred pounds, or to both.

Cf. 1934, No. 18, s. 28

47. Failure to answer questions—Every person commits an offence against this Act who fails or refuses to answer any
20 question properly put to him for the purposes of this Act by any officer or other person acting under the authority of this Act, or who does not truly answer any such question.

Cf. 1934, No. 18, s. 29

48. Offences generally—Every person commits an offence
25 against this Act who acts in contravention of or fails to comply in any respect with any of the provisions of this Act or of any regulations made under this Act.

Cf. 1934, No. 18, s. 30

49. General penalty—Every person who commits any
30 offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding two hundred pounds and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day on which the offence has continued.

35 Cf. 1934, No. 18, s. 30

50. Offences to be punishable on summary conviction—
(1) Every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction before a Magistrate.

(2) Section fourteen of the Summary Proceedings Act 1957 shall not apply to any prosecution for an offence against this Act.

Cf. 1934, No. 18, s. 33

51. Liability of principal for sales by agent, etc.—(1) Where any person sells or packs or has in his possession for sale or packing any poison or poisonous substance or toxic substance as the agent or servant of any other person, that other person shall be under the same liability as the agent or servant for any offence against this Act committed in respect of such sale, packing, or possession. 5 10

(2) Where any company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of a like offence unless he proves that the offence was committed without his knowledge or consent. 15

Cf. 1934, No. 18, s. 32

52. Notification of conviction of medical practitioners, etc.—Where any person being a medical practitioner, chemist, dentist, or veterinary surgeon is convicted of any offence against this Act or against any regulations made under this Act, the Court shall cause particulars of the conviction to be sent to the person charged with the duty of keeping the register on which the name of the convicted person appears as a registered medical practitioner, chemist, dentist, or veterinary surgeon, as the case may be. 20 25

Cf. 1934, No. 18, s. 14

53. Regulations—(1) The Governor-General may from time to time, by Order in Council, make such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act. 30

(2) Without limiting the generality of subsection one of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes: 35

(a) Prescribing forms, fees, registers, particulars, notifications, and records for the purposes of this Act; and prescribing the persons or classes of persons by whom any such records shall be kept or notifications given: 40

- (b) Prescribing conditions of licences under this Act; and providing for or regulating the custody, production, cancellation, or revocation of licences:
- 5 (c) Prohibiting, restricting, or regulating the sale, distribution, custody, carriage, handling, or use of any poison, poisonous substance, or toxic substance, or of any class thereof; prescribing poisons or poisonous substances, or classes thereof, that may be sold only if registered in accordance with the regulations; and
- 10 restricting the use of any poison or class of poisons to persons licensed in accordance with the regulations:
- (d) Prohibiting, restricting, or regulating the importation, manufacture, sale, or use of any apparatus intended for use or capable of being used for the handling, application, or dissemination of any poison or poisonous substance or toxic substance or of any class thereof:
- 15 (e) Regulating the packing and labelling of, and the marking of vehicles carrying, poisons or poisonous substances or toxic substances, and prescribing requirements to be compiled with in respect of such packing and labelling; and prescribing methods of treatment or disposal of containers that have been used to convey, hold, or store poisons or poisonous substances or toxic substances:
- 20 (f) Providing for the notification of damage to or leakage from containers of poisons or poisonous substances or toxic substances, or of suspected contamination of goods, in the course of transportation by any means:
- 25 (g) Prescribing methods to be used in the colouring of any poison or poisonous substance:
- (h) Restricting and regulating advertisements for poisons or poisonous substances or toxic substances, and statements made in any such advertisement:
- 35 (i) Providing for the safety, health, and welfare of persons handling poisons or poisonous substances or toxic substances; and for that purpose regulating the construction, ventilation, lighting, and sanitation of premises where poisons or poisonous substances or toxic substances are used, prepared, packed, or stored, and requiring the provision of protective clothing, washing facilities, and first-aid and other facilities:
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- (j) Prohibiting or restricting the employment of any specified class of persons in any manufacture or process in which any poison or poisonous substance or toxic substance is handled or used, or modifying or limiting the hours of employment of persons or classes of persons engaged in any such manufacture or process: 5
- (k) Prescribing the poisons and poisonous substances to which section thirty-five of this Act applies:
- (l) Imposing conditions to be complied with by medical practitioners, dentists, and veterinary surgeons in respect of the issue of prescriptions containing poisons or poisonous substances: 10
- (m) Subject to the provisions of subsection three of this section, prohibiting or restricting the sale or supply of any specified substance or class of substances except pursuant to the order or prescription of a medical practitioner, dentist, or veterinary surgeon: 15
- (n) Regulating the dispensing and compounding of poisons and poisonous substances: 20
- (o) Providing for the obtaining of information in respect of persons addicted or habituated to the use of poisons, and for the prohibition, restriction, or regulation of the supply of poisons to such persons.
- (p) Providing for the exemption of preparations or classes of preparations, either wholly or partly, from any of the provisions of this Act or of the regulations. 25
- (3) Regulations under paragraph (m) of subsection two of this section shall be made only on the recommendation of the Minister after consultation by him with the Pharmacy Board of New Zealand. 30
- (4) Notwithstanding anything in any regulation made under this Act, it shall be lawful for any person, at any time within twelve months after the date of the gazetting of the regulation, to sell any poison or poisonous substance or toxic substance the sale of which by him is otherwise lawful, if at the said date the poison or poisonous substance or toxic substance was part of the existing stock-in-trade in New Zealand of any person lawfully carrying on business there, and that since the said date no act has been done whereby the poison or poisonous substance or toxic substance fails to conform to the regulation. For the purpose of this subsection any goods purchased before the said date for importation into New Zealand shall be deemed to be part of the purchaser's stock-in-trade in New Zealand. 35
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(5) In any proceedings for any offence against any regulation in which subsection four hereof is pleaded in defence the burden of proof that the provisions of that subsection are applicable shall lie on the person charged.

5 **54. Special provisions as to regulations**—(1) Any regulation made under this Act may apply generally, or may apply or be applied from time to time by the Minister by notice in the *Gazette*, within any specified district or subdivision of a district of any local authority, or within any specified part
10 of New Zealand; and any such notice may be revoked or varied at any time in like manner.

(2) If at any time while any such regulations apply within any specified district or subdivision of a district of any local authority the boundaries of the district or subdivision are
15 altered, the regulations, unless the context thereof or of any such notice as aforesaid otherwise requires, shall thereafter apply within the district or subdivision as so altered.

(3) The operation of any regulations made under this Act may, if so provided in the regulations, be wholly suspended
20 until they are applied by the Minister by notice pursuant to subsection one of this section.

(4) So far as the bylaws of any local authority in force in any locality are inconsistent with or repugnant to any regulations under this Act in force in that locality, the bylaws
25 shall be deemed to be subject to the regulations.

(5) All regulations made under this Act and all Orders in Council made under section four hereof shall be laid before Parliament.

30 **55. Act to bind the Crown**—(1) Except as provided in this section, this Act shall bind the Crown.

(2) This Act shall not apply to the New Zealand Naval Forces, the New Zealand Army, or the Royal New Zealand Air Force, or the members of any of those forces while they are acting in the course of their duties.

35 **56. Repeals and savings**—(1) The following enactments are hereby repealed, namely—

- (a) The Poisons Act 1934:
- (b) Sections twenty-six and twenty-seven of the Statutes Amendment Act 1950:
- 40 (c) The Poisons Amendment Act 1952:
- (d) Subsections four and five of section fifty-four of the Rabbits Act 1955.

(2) Section fifty-four of the Rabbits Act 1955 is hereby further amended by repealing subsection three and substituting the following subsection:

“(3) Without limiting in any way the general powers conferred on it by the provisions of subsection one of this section, the Board may, for the purpose of exercising such powers, apply for and be granted a licence under the Arms Act 1958 to deal in ammunition, notwithstanding anything to the contrary in that Act.”

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.