

# **LAWS OF MALAYSIA**

## **Act 366**

### **POISON ACT 1952**

An Act to regulate the importation, possession, manufacture, compounding, storage, transport, sale and use of poisons.

[West Malaysia – 1<sup>st</sup> September 1952;  
East Malaysia – 1<sup>st</sup> June 1978]

#### **Short title and application**

1. (1) This Act may be cited as the Poisons Act 1952.
- (2) This Act shall apply throughout Malaysia.

#### **Interpretation**

2. (1) In this Act unless the context otherwise requires –

“Acetylating substance” includes acetic anhydride, acetyl chloride and acetyl bromide;

“animal treatment” means the treatment of animal ailments;

“British Pharmacopoeia” and “British Pharmaceutical Codex” respectively include supplements thereto;

“compounding”, and its grammatical variations, mean the preparation, weighing, measuring and mixing if necessary of drugs and chemical for the treatment of ailments;

“contravention” of a provision includes a failure to comply with such provision;

“conveyance” includes ship, train, vehicle, aircraft or any other means of transport by which persons or goods can be carried;

“dental treatment” means the treatment of human ailments of the teeth or jaws or accessory structures or the performance of operations or the giving of treatment commonly undertaken or given by those practising dentistry;

“Director General of Health” means the Director General of Health, Malaysia;

“dispensed medicine” means medicine supplied by a registered medical practitioner, registered dentist or veterinary surgeon under and in accordance with section 19 or supplied, for the purpose of the medical, dental or animal treatment, of a particular individual by a licensed pharmacist on the premises specified in his licence;

“Drug Enforcement Officer” means any registered pharmacist in the public service duly authorized in writing by the Licensing Officer under section 31 (1);

“estate” means any agricultural land exceeding twenty-five acres in extent upon which agricultural operations of any kind are carried on or upon which the produce of any plants or trees is collected or treated or any mine to which the provisions of Part IX of the Labour Code of the Federated Malay States [*F.M.S. cap 154*] or any of such provisions or any provisions, corresponding to such provisions, in force in any State have been lawfully applied;

“estate hospital” means a hospital or dispensary maintained by an employer on or in the neighborhood of an estate for the treatment of labourers thereon and includes a group hospital within the meaning of the Labour Code of the Federated Malay States [*F.M.S. cap 154*] or of any written law in any State corresponding thereto;

“Exempted preparation” means a preparation containing a poison of the kind or having the strength or otherwise coming within the description specified in the last column of the Poisons List entitled “Exempted Preparations”;

“generally accepted name” means the name by which a substance is generally known in the trade;

“a Group A Poison” “a Group B Poison” “a Group C Poison” “a Group D Poison” “a Group E Poison” and “a Group F Poison” respectively means a poison having the strength or otherwise coming within the description specified in the column of the Poisons List entitle Group A, Group B, Group C, Group D, Group E or Group F respectively opposite to the name of such poison appearing in the first column of the Poisons List;

“Licensing Officer” means a person appointed to be a Licensing Officer under section 26 and includes the Director General of Health;

“licensed pharmacist” means a registered pharmacist who is the holder of a Type A Licence issued to him under section 26;

“licensed retailer” means a person holding a licence issued to him under section 26 to sell poisons by retail and includes a listed seller;

“licensed wholesaler” means a person holding a licence issued to him under section 26 to sell poisons by wholesale;

“listed seller” means a person holding a Type C Licence issued to him under section 26;

“manufacture” and its grammatical variations, mean the preparation, compounding, mixing and making of a pharmaceutical preparation in bulk but does not include the dispensing of a pharmaceutical preparation for a particular individual;

“medical treatment” means the treatment of human ailments”

“Minister” means the Minister charged with the responsibility for medical and health services;

“Part I Poison” means a Group A, Group B, Group C, Group D, Group E or Group F poison specified in the column of the Poisons List entitled “Part I’ of the First Schedule;

“Part II Poison” means a poison specified in the column of the Poisons List entitled “Part II” of the First Schedule;

“poison” means any substance specified by name in the first column of the Poisons List and includes any preparation, solution, compound, mixture or natural substance containing such substance, other than an exempted preparation or an article or preparation included for the time being in the Second Schedule;

“Poisons List” means the Poisons List set out in the First Schedule as amended from time to time in accordance with section 6;

“possess for sale” and its grammatical variations include having in possession knowing that the article possessed is likely to be sold or *exposed for sale*;

“premises” includes any house, shop, store, room, cubicle, shed, conveyance, structure or any place whether open or enclosed;

“retail sale” means any sale other than a wholesale sale;

“registered dentist” means a dental practitioner registered in Division I or Division II of the Register kept under section 11 (1) of the Dental Act 1971 [*Act 51*]; and “registered dentist Division I” and “registered dentist Division II” means a dental practitioner whose name has been registered in the first or second division respectively of the said Register;

“registered medical practitioner” means a medical practitioner registered under the Medical Act 1971;

“registered pharmacist” means a pharmacist registered under any written law relating to the registration of pharmacists, and includes, in Sabah or Sarawak, a person holding a qualification recognized by the Director of Medical Services in Sabah or Sarawak, as the case may be, as a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of the profession of a pharmacist;

“sell” or “sale” includes barter and also includes offering or attempting to sell;

“supply” includes the supply of commercial samples and dispensed medicines, but does not include the direct administration by or under the immediate personal supervision of a registered medical practitioner or registered dentist of a poison or medicine to his patient in the course of treatment where such administration is authorized under section 19;

“veterinary officer” has the meaning assigned thereto in the Veterinary Surgeons Act 1974 [Act 147] ;

“West Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Act 1967 [Act 23/67], and includes the Federal Territory of Kuala Lumpur and Labuan;

“wholesale” means a sale to any person who intends to sell again and any sale by a licensed wholesaler authorized by paragraphs (d) to (j) inclusive of section 15 (2);

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“written law” has the meaning assigned thereto in the Interpretation Act 1967.

- (2) In this Act where anything is required to be done under the immediate personal supervision of any person it shall be deemed to have been so done if such person was at the time it was done upon the premises where it was done and available for immediate consultation by the person doing such thing:

Provided that where any dispensing compounding or mixing of any poison with any other substance is required to be done under the immediate personal supervision of any person, it shall not be deemed to have been so done unless such person has himself checked such dispensing, compounding or mixing.

### **Establishment of Poisons Board**

**3.** (1) For the purpose of this Act and to advise the Minister generally thereon, there shall be established an advisory board, called the Poisons Board, consisting of the members following –

- (a) the Director General of Health who shall be an ex-officio member;
- (b) one pharmacist holding office in the service of the Government to be appointed by the Minister.
- (c) One officer of the Department of Chemistry to be appointed by the Minister;
- (d) One officer of the Department of Agriculture to be appointed by the Minister;

- (e) One officer of the Veterinary Department holding office in the service of the Government to be appointed by the Minister; and
- (f) eight persons ordinarily resident in Malaysia and not in the service of any Government in the Federation to be appointed by the Minister who shall be nominated as follows –
  - (i) one by the Malaysian Medical Association;
  - (ii) one by the Malaysian Medical Council established under the Medical Act 1971;
  - (iii) one by the Malaysian International Chamber of Commerce and Industry;
  - (iv) one by the Associated Chinese Chambers of Commerce and Industry of Malaysia;
  - (v) one by the Malaysia Chambers of Commerce
  - (vi) one by the Associated Indian Chambers of Commerce, Malaysia
  - (vii) one by the Malaysian Pharmaceutical Association; and
  - (viii) one by the Malaysian Rubber Producer's Council.

(2) Every member, other than the ex-officio members, shall, unless he shall sooner resign, hold office for a period of three years or such shorter period as the Minister may in any particular case determine from the date of his appointment.

- (3) Any person ceasing to be member of the Board shall be eligible for re-appointment.

(4) The Minister may appointment a person similarly qualified to be a temporary member of the Board during the incapacity through illness or during the absence from Malaysia of any member, other than an ex-officio member, of the Board:

Provided that no person shall be appointed in the place of a member nominated under subsection (1) (g) except upon the nomination by the body by which such member was nominated.

- (5) Every such temporary member shall be deemed to be a member of the Board.

### **Proceedings of Board**

4. (1) The Director General of Health shall be the Chairman of the Poisons Board and shall preside at all meetings which he attends.

(2) In the absence of the Chairman from any meeting the members present shall elect one of their memgbers to preside.

(3) The Chairman or member presiding at any meeting shall have an original vote and also, if upon any question the votes are equally divided, a casting vote.

(4) The Board shall meet at such places and times as the Chairman may appoint and at any meeting four members including the Chairman or memgber presiding shall form a quorum.

(5) The Board may invite any one or more persons to attend any meeting of the Board but a person so attending shall not have the right to vote at the meeting.

(6) There may be paid to members of the Board such allowances and other expenses as may be determined by the Board with the approval of the Minister and such allowances and expenses shall be payable out of the general revenues of the Federation.

(7) The Minister may, after consultation with the Board, appoint a Secretary to the Board who shall not be a member of the Board or have any right to vote at its meetings.

#### **Powers of Board to regulate proceedings**

5. (1) Subject to this Act the Poisons Board shall have power to regulate its own procedure.

(2) No action or proceeding of the Board shall be questioned on the ground –

(a) of the existence of any vacancy in the membership or any defect in the constitution of the Board; or

(b) of any omission, defect or irregularity in procedure not affecting the merits of the case.

#### **Power of Minister to amend Poisons List**

6. The Minister may, from time to time, after consultation with the Poisons Board by order notified in the Gazette, add to, remove from or reinstate in the Poisons List any substance as he may deem fit or proper, or remove from transfer to or include in any column of the Poisons List any poison, or exempted preparation or amend any definition of any poison or exempted preparation contained in such list or in any column thereof.

### **Application of the Act**

7. (1) Nothing in this Act shall apply –

- (a) to any exempted preparation; or
- (b) to any article or preparation specified in the Second Schedule.

(2) The Minister may, from time to time, after consultation with the Poisons Board by order notified in the *Gazette*, add to or remove from the Second Schedule any article or preparation.

(3) Save in so far as is expressly provided by any regulation made under this Act, this Act shall not apply to the sale or supply of any poison or of any medicine containing poison by any officer or person, who

- (a) is employed in any hospital, infirmary, dispensary or veterinary hospital wholly maintained by the Government of Malaysia or any State Government or by any local authority or out of public funds or by a charity approved by an order, whether general or special, of the Director General of Health, and who sells or supplies in the course of his duty such poison or medicine to any out-patient of such hospital, infirmary or dispensary for the medical or dental treatment of such patient or, in the case of an officer or person employed in a veterinary hospital, to any person for the animal treatment of any animal tended by him; or
- (b) is employed in any hospital, infirmary, dispensary, clinic, nursing home or other institution at which human ailments are treated, and who sells or supplies in the course of his duty such poison or medicine for the use in the wards, operating theatres or other sections thereof:

Provided that such sale or supply is made and conducted in accordance with any regulations expressly applicable thereto made under this Act..

### **Control of imports of poisons**

8. (1) No person other than a person licensed under this Act in that behalf shall import any poison from any place outside Malaysia.

(2) This section shall not apply to –

- (a) any person arriving in Malaysia from a place outside Malaysia who imports, as part of his personal luggage and solely for his personal use or for the use of his family, a prepared or packaged medicine containing any poison, not exceeding such quantities as may be reasonably required for one month's use by one person; and

- (b) any person importing a prepared or packaged medicine containing any poison for his own personal use or for that of his family by letter or parcel post, in such quantities and subject to such conditions as may be prescribed by regulations made under this Act; and
  - (c) any officer of the Government importing in the course of his duty any poison on account of the Government; and
  - (d) any other person whom the Minister may absolutely or conditionally exempt from the provisions of this section.
- (3) Any person who imports any poison in contravention of this section or who contravenes any term or condition of any licence granted to him or the provisions of any regulation made or any condition of any exemption granted to him under this section shall be guilty of an offence against this Act.

### **Packaging, labelling and storing of poisons**

**9.** (1) No person, whether licensed under this Act or not, shall knowingly sell, supply, keep or have in his possession or under his control or store any poison otherwise than in accordance with the regulations made under this Act and in force relating to the possession, containers, packaging, labelling or storing of such poison.

(2) In any proceedings under this section if any person is proved to have sold, kept or had in his possession or under his control or stored any poison he shall be deemed to have done so knowingly, unless the contrary is proved by him.

(3) Any person who contravenes subsection (1) shall be guilty of an offence against this Act.

### **Transport of poisons**

**10.** No person shall transport or consign for transport any poison otherwise than in accordance with the regulations made under this Act.

### **Control of manufacture of preparations containing poisons**

**11.** No preparation containing any poison shall be manufactured otherwise than in accordance with the regulations made under this Act.

### **Control of compounding of poisons for use in medical treatment**

**12.** (1) No person shall dispense, compound or mix any poison with any other substance, whether a poison or not, for the purpose of its being used for medical treatment unless he is –

- (a) a registered pharmacist or a person working under the immediate personal supervision of a registered pharmacist;
- (b) a person acting in the course of his duties who is employed in a hospital or dispensary maintained by the Government of Malaysia or any State Government or out of public funds or by a charity approved by an order whether general or special of the Director General of Health or in an estate hospital and who is authorized in writing by the registered medical practitioner for the time being in charge of such hospital or dispensary to dispense, compound and mix poison; or
- (c) a registered medical practitioner or a person working under the immediate personal supervision of such a practitioner who dispenses, compounds or mixes poisons for the use of such practitioner or of his patients.

(2) No poison shall be dispensed, compounded or mixed with any other substance whether a poison or not otherwise than in accordance with any regulations made under this Act.

**Possession for sale of poison and sale of poison  
in contravention of this Act an offence**

**13.** Any person who –

- (a) possesses for sale any poison, unless he is licensed under this Act to sell or supply such poison or authorized under section 18 to sell or supply such poison; or
- (b) sells or supplies any poison in contravention of, or otherwise than in accordance with, this Act, or of any regulations made thereunder or of the terms and conditions of any licence issued to him under this Act, relating to the sale or supply of poison, or relating to the sale or supply of poison included in that Part or Group of the Poisons List in which the poison so sold or supplied is included.

Shall be guilty of an offence against this Act.

**Control of acetylating substances**

**14.** (1) Any person who has in his possession an acetylating substance shall be guilty of an offence against this Act unless he proves –

- (a) that he is licensed under this Act;
- (b) that he is authorized under this Act; or

(c) that the acetylating substance is in his possession for a lawful purpose.

(2) In any prosecution for an offence under this section, any person who is found to have in his custody or under his control any acetylating substance shall be deemed to have been in possession of the substance and to have known the nature of the substance, until he proves to the contrary.

(3) Any person convicted of an offence against this section shall be liable to imprisonment for a term not exceeding fourteen years and not less than three years, and he shall also be punished with whipping of not less than six strokes.

(4) Notwithstanding any other provision in any other written law to the contrary, a person charged under this section shall not be granted bail.

### **Sale of poisons by wholesale**

**15.** (1) No poison shall be sold by wholesale except by a licensed wholesaler in accordance with the term and conditions of his licence.

(2) No poison shall be sold by a licensed wholesaler except to –

- (a) a person licensed to retail such poison;
- (b) a purchaser outside Malaysia to whom such poison is to be immediately exported on sale;
- (c) another licensed wholesaler;
- (d) the owner of the manager acting on behalf of the owner of any estate for the purpose of the business of such estate or for enabling such owner, or his manager acting on his behalf, to comply with any requirements made by or under any written law with respect to the medical treatment of persons employed on such estate; or
- (e) a professional person or tradesman for the purpose of such person's of trademan's profession or trade and not for resale;
- (f) a registered medical practitioner or registered dentist for the treatment of his patients or a veterinary surgeon for the treatment of any animal which such surgeon is employed to treat;
- (g) a licensed pharmacist;
- (h) a Government Department, local authority or public body;

- (i) a hospital, infirmary, dispensary or veterinary hospital maintained by the Government of Malaysia or any State Government or by any local authority or out of public funds or by a charity approved by an order, whether general or special, of the Director General of Health;
  - (j) a person or institution concerned with scientific education or research or chemical analysis for the purpose of such education, research or analysis.
- (3) The seller by wholesale of any poison shall not deliver it until –
- (a) he has made or caused to be made an entry in a book to kept for such purpose, in the prescribed form, stating the name and address of the purchaser, the date of the sale, the name and quantity of the poison sold and the purposes for which it is stated by the purchaser to be required; and
  - (b) the purchaser has affixed his signature to the entry or has forwarded to the seller a written order in respect of such sale signed by the purchaser and containing the particulars required to be entered under this subsection. Every such written order shall be retained by the seller and a reference to the file in which such order is retained shall be entered in the book in place of the purchaser's signature.

(4) Notwithstanding the provisions of subsection (3), if it shall appear to the seller that any poison is required urgently and that it is impossible or unreasonable to obtain the signature of the purchaser or his signed written order before delivery thereof, it shall be lawful for the seller, after making an entry in the book stating the reasonable for his action and the date of delivery, to deliver such poison to the purchaser without such signature or order;

Provided that, in every such case, the seller shall take all necessary steps to obtain, and the purchaser shall forward, a written order signed by the purchaser in respect of such sale, within seven days of the date of such delivery.

(5) Any purchaser who fails or neglects to forward to the seller a written order duly signed by him within the time prescribed by the proviso to subsection (4) in respect of any poison delivered to him under the provisions of such subsection shall be guilty of an offence against this Act.

(6) Nothing in this section shall be held to authorize the sale by wholesale of any particular kind of poison otherwise than in accordance with this Act or of any regulations made thereunder relating to such kind a poison.

(7) Any person who sells or delivers any poison by wholesale in contravention of this section shall be guilty of an offence against this Act.

### **Sale of poisons by retail**

**16.** (1) Subject to section 18 no poison shall be sold by retail except by a person licensed to sell such poison by retail and in accordance with the terms and conditions of such licence.

(2) Every such sale shall be effected on the premises specified in such licence.

(3) Every such sale shall be effected by or under the immediate personal supervision of the person named in such licence.

(4) Every such sale shall be effected in accordance with this Act and of any regulations made thereunder relating to such poison.

(5) Any person who sells any poison by retail in contravention of this section shall be guilty of an offence under this Act.

### **Prohibition of sale to persons under 18**

**17.** (1) No poison shall be sold or supplied to any person under eighteen years of age, otherwise than for purpose of the medical treatment of such person.

(2) Any person contravening this section shall be guilty of an offence against this Act.

(3) It shall be a sufficient defence to any charge under this section that the person charged had reasonable cause to believe that the person to whom such sale was made was above the age of eighteen years.

### **Restriction on the sale of Part I poisons generally**

**18.** (1) Part I Poison shall not be sold or supplied to any person except –

(a) by wholesale in accordance with section 15; or

(b) by retail sale effected by or under the immediate personal supervision of a licensed pharmacist;

Provided that a group F Poison may be sold or under the immediate personal supervision of a listed seller as well as by a licensed pharmacist; or

(c) as an ingredient of a dispensed medicine, by a registered medical practitioner, registered dentist or veterinary surgeon in accordance with section 19; or

(d) to be exported to purchasers outside Malaysia; or

(e) to a person or institution concerned with scientific education or research or chemical analysis and for the purpose of such education research or analysis.

(2) Nothing in this section shall be deemed to authorize the sale of any kind of poison otherwise than in accordance with this Act or of any regulations made thereunder relating to such kind of poison or otherwise than in accordance with the terms and conditions of the licence in that behalf held by the seller.

### **Supply of poisons for the purpose of treatment by professional men**

**19.** (1) Any poison other than a Group A Poison may be sold, supplied or administered by the following persons for the following purposes –

- (a) a registered medical practitioner may sell, supply or administer such poison to his patient for the purposes of the medical treatment of such patient only;
- (b) a registered dentist Division I may sell, supply or administer such poison to his patient for the purposes of the dental treatment of such patient only; and
- (c) a veterinary officer may sell or supply such poison to his client for the purposes of animal treatment only.

(2) A registered dentist Division II may sell, supply or administer to his patient for the purposes of the dental treatment of such patient only any poison other than a Group A of a Group B Poison.

(3) Every medicine containing any poison sold or supply supplied under subsection (1) or (2) shall be prepared by or under the immediate personal supervision of such practitioner, dentist or veterinary officer, as the case may be:

Provided that any medicine, received by such practitioner, dentist or veterinary officer in a prepared state from a manufacturer or wholesaler, shall be deemed, for the purposes of this section, to have been prepared by such practitioner, dentist or veterinary officer respectively, if the receptacle containing such medicine is labelled by or under the immediate personal supervision of such practitioner, dentist or veterinary officer in such manner as may be prescribed by regulations made under this Act, relating to the labelling of dispensed medicines.

(4) Any medical practitioner, dentist or veterinary officer who sells or supplies any poison or medicine containing a poison not prepared by him or under his immediate personal supervision shall be guilty of an offence against this Act.

### **Group A Poisons**

**20.** Group A Poison shall not be sold or supplied by wholesale or retail except;

- (a) by a licensed wholesaler to a licensed pharmacist or to another licensed wholesaler; or

- (b) by a licensed wholesaler to be immediately exported to a purchase outside Malaysia.

### **Group B Poisons**

- 21.** (1) Group B Poison shall not be sold or supplied by retail to any person except:
- (a) where the sale or supply of such poison, if it had been a Group A Poison, would have been authorized under section 20;
  - (b) by registered medical practitioner, registered dentist Division I or veterinary officer selling or supplying the same in accordance with section 19; or
  - (c) by a licensed pharmacist, as a dispensed medicine on and in accordance with a prescription prescribed by a registered medical practitioner, registered dentist or veterinary officer in the form required by subsection (2) and when supplied in accordance with this Act and of any regulations made thereunder relating to such sale or supply on a prescription.

### **Form of Prescription for Group B Poison**

(2) Every prescription for any Group B Poison prescribed by a registered medical practitioner, registered dentist, or registered veterinary officer shall:

- (a) be in writing signed and dated by the prescriber thereof;
- (b) state the address of the prescriber;
- (c) state the name and address of the patient or, in the case of a prescription by a veterinary officer, the name and address of the person to whom such medicine is to be delivered.
- (d) Indicate the total amount of medicine to be supplied and the dose;  
and
- (e) specify the number of times (not exceeding three) the medicine may be dispensed and, if dispensed more than once, at what intervals.

(3) No person shall sell or supply by retail any Group B Poison on a prescription which does not comply with all the requirements of subsection (1) or which contravenes subsection (5) or shall sell or supply such poison otherwise than in accordance with the terms of such prescription.

(4) Every person selling or supplying any Group B Poison on a prescription shall, at the time of selling or supplying the same, endorse upon the face of the prescription, above the

signature of the prescriber, his name and address and the date on which such poison or medicine was sold or supplied.

(5) No prescription for any Group B Poison shall be written wholly or partly in code or in such manner that it is not readily decipherable and capable of being dispensed by any pharmacist.

(6) Notwithstanding the provisions of the foregoing subsection of this section, if it shall appear to the seller or supplier that any medicine is required urgently and that it is impossible without unreasonable delay to obtain a prescription complying with the requirements of subsection (1) it shall be lawful for the seller or supplier' after making an entry to that effect in his prescription book, upon the verbal or telephoned instructions of a medical practitioner, personally known to him, to sell or supply such poison without such prescription:

Provided that in every such case the seller or supplier shall take all necessary steps to obtain, and the prescriber shall deliver, a prescription in accordance with subsection (1) within one day of the date of such sale of supply.

(7) Any person, selling or supplying any Group B Poison in contravention of this section, of failing or neglecting to endorse such prescription as required by subsection (4), or writing any prescription in code or otherwise in contravention of subsection (5), or failing to take any necessary step to obtain, or failing to deliver, the prescription as required by subsection (6), shall be guilty of an offence against this Act.

### **Group C Poisons**

**21.** Group C Poison shall not be sold or supplied by retail to any person except:

- (a) where the sale or supply of such poison, if it had been a Group B Poison, would have been authorized under or by virtue of, and is effected in accordance with section 21; or
- (b) as a dispensed medicine or an ingredient in a dispensed medicine.

### **Group D Poisons**

**23.** (1) Group D Poison shall not be sold or supplied by retail to any person except:

- (a) where the sale or supply of such poison, if it had been a Group C Poison, would have been authorized under or by virtue of section 22; or
- (b) by a licensed pharmacist to a person known personally to such pharmacist or introduced to the pharmacist personally by a person known personally to the pharmacist and when such poison is sold or supplied in accordance with this section and of any regulations made under this Act relating to such sale of supply.

## **Poisons Book**

(2) Where any Group D Poison is sold to any person by a retailer otherwise than as a dispensed medicine or an ingredient in a dispense medicine, the retailer shall not deliver it until –

- (a) he has made or caused to be made an entry in a book to be kept for such purpose in the prescribed form (in this Act referred to as the “Poison Book”) stating the name and address of the purchaser and the name and address of the person (if any) introducing such purchaser, the date of the sale, the name and quantity of the poison sold and the purposes for which it is stated by the purchaser to be required; and
- (b) the purchaser has affixed his signature to the entry or has forwarded to the retailer a written order in respect of such sale signed by the purchaser containing the particulars required to be entered in the Poisons Book under this section. Every such written order shall be retained by the seller and a reference to the file in which such order is retained shall be entered in the book in the place of the purchaser’s signature.

(3) Notwithstanding subsection (2) if it shall appear to the retailer that any such poison is required urgently and that it is impossible or unreasonable to obtain the signature of the purchaser or his signed written order before delivery thereof it shall be lawful for the retailer after making an entry in the Poisons Book stating the reasons for his action and the date of delivery to deliver such poison to the purchaser without such order or signature.

Provided that in every such case the retailer shall take all necessary steps to obtain, and the purchaser shall forward, a written order signed by the purchaser in respect of such sale within seven days of the date of such delivery.

(4) Any purchaser who fails or neglects to forward to the seller a written order, duly signed by him, within the time prescribed by subsection (3), in respect of any poison delivered to him under the provisions of such subsection, shall be guilty of an offence against this Act.

(5) Subsection (3), any retailer who delivers to any person any Group D Poison in contravention of subsection (2) shall be guilty of an offence against this Act.

## **Prescription book**

**24.** (1) Where any poison is sold or supplied as a dispensed medicine or as an ingredient in a dispensed medicine, the seller or supplier shall, on the day on which such poison or medicine is sold or supplied, enter or cause to be entered in a book, kept for such purpose (in this Act referred to as the “Prescription Book”) –

- (a) the date on which the medicine was sold or supplied and the serial number of the entry in such book of the prescription (if any);
- (b) the name of the poison and the ingredients of the medicine or, in the case of a proprietary medicine, the name of the medicine and the quantity supplied;
- (c) in the case of a sale or supply by a retailer on a prescription, the name of the patient, or, when the prescriber is a veterinary officer, or the prescription relates to animal treatment, the name of the recipient; and
- (d) in the case of a sale or supply as a dispensed medicine otherwise than on a prescription, the name and address of the person to whom it was sold or supplied;

Provided that when a prescription is repeated it shall be sufficient to enter in the prescription book the date, the serial number of the sale, supply and prescription (if any) originally entered and the name of the patient or recipient.

(2) In this section “prescription” means any written or oral instruction to the seller or supplier to supply any poison, or medicine containing any poison, for the purpose of the medical, dental or animal treatment of any person or animal, given by any person; and “prescriber” means the person giving such instructions or causing such instructions to be given to the seller or supplier.

(3) If any prescription is given orally, such prescription shall be confirmed by a written prescription within one day.

### **Sale of Part II Poisons**

**25.** (1) No person shall sell or supply any Part II Poison otherwise than in accordance with this Act and of any regulations made thereunder.

(2) No person, licensed to sell Part II Poison only, shall sell any arsenical or mercurial poison to any person, unless such person is engaged in agriculture, horticulture or the trade or business of curing skins or hides or the preservation of buildings or other structures, liable to be destroyed by insects, and requires such poison for the purpose of such agriculture, horticulture, trade or business.

(3) Any person selling or supplying any Part II Poison in contravention of subsection (1) or (2) shall be guilty of an offence against this Act.

### **Licences**

**26.** (1) The Director General of Health, or the Director of Pharmaceutical Services or the Director of Medical and Health Services of any State duly appointed in writing by the Director

General of Health to be a licensing Officer of any State or the Federal Territory may, subject to this Act, issue licences for purposes of this Act.

(2) Such licences may be –

(a) a Type A licence issued to a pharmacist to import, store and deal generally by wholesale and retail or by wholesale only or by retail only, subject to this Act, in all poisons;

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(b) Type B licence issued to any person whom the Licensing Officer may consider to be a fit and proper person to hold such licence, or issued to a responsible officer of a company incorporated under the Companies Act 1965 to import, store and sell by wholesale such poisons (not being a Group A Poison) as may be specified in such licence;

Provided that no such licence shall be issued to any person or officer who is engaged or concerned in any business of selling goods by retail or shall continue valid at any time after such person or officer becomes so engaged or concerned;

(c) a Type C licence issued to any person (in this Act referred to as “a listed seller”), whom the Licensing Officer may consider to be a fit and proper person to hold such licence, to store and sell by retail Group F Poisons only:

Provided that no such licence shall be issued within a local authority area unless there is no pharmacist, licensed to sell by retail, carrying on business within such area;

(d) a Type D licence issued to any person, whom the Licensing Officer may consider to be a fit and proper person to hold such licence, to store and sell by retail such Part II Poisons as may be specified therein;

(e) A Type E licence issued to any person who in the course of his business uses Sodium Hydroxide in such substantial quantity that the Licensing Officer deems it appropriate to issue to him a licence to import, store and use Sodium Hydroxide.

(3) Every such licence shall be substantially in the form prescribed applicable to the type of such licence and shall state the name of the person to whom it is issued, and the premises on which any sale or use may be effected, and the period for which such licence is valid.

(4) Every such licence shall be subject to such terms and conditions, not inconsistent with this Act or of any regulations made thereunder, as the Licensing Officer may in his discretion impose, subject however in all cases to appeal to the Minister.

(5) The Licensing Officer may, in his discretion, refuse to issue any such licence or may cancel any such licence previously issued:

Provided that any person aggrieved by the refusal of the Licensing Officer to issue a licence or by the cancellation of a licence may appeal to the Minister whose decision shall be final.

(6) Every such licence shall be personal to the licensee named therein and shall not in any case, be transferable to another person and no licence shall authorise the sale of any poison by any person other than the person named therein or otherwise than under his personal supervision, provided that the Licensing Officer, if he sees fit, may amend on a licence the address of the premises at which the person licensed carries on the business or profession in respect of which he is licensed.

### **Register of licences**

**27.** (1) Every licence, issued under this Act by a Licensing Officer for any State in such State, shall be numbered consecutively in respect of each type and of the year in which it was issued, commencing each year with the number one.

(2) The Licensing Officer for each State shall keep a register of licences issued by showing all the particulars of each licence so issued, and the entries in such register shall be numbered to correspond with the serial numbers of the licences and there shall be noted in the register, in the event of the cancellation of any licence, the date of such cancellation.

(3) Any extract from or copy of an entry in a register kept under this section shall be prima facie evidence of the facts stated therein, if such extract or copy is certified under the hand of the Licencing Officer to be a true extract of copy.

### **Annual list to be published**

**28.** (1) The Director General of Health shall, in or about the month of February in each year, cause to be printed and published, in the Gazette, list of all persons, named in alphabetical order, licensed under this Act together with particulars of the nature of the licence or licences issued to each such person, and specifying the profession or business and the premises in respect of which such licences have been issued.

(2) Every list so published shall be prima facie evidence that, at the date to which such list relates, the persons therein named are or were licensed under this Act in the manner stated in such list, and that any person not named therein is or was not licensed under this Act.

### **Control of the import manufacture and sale of lead tetra ethyl**

**29.** (1) In this section –

“lead tetra ethyl” includes other similar lead containing compounds used as ingredients of motor fuel;

“ethyl petrol” means motor spirit containing lead tetra ethyl

“concentrated ethyl fluid” means any fluid containing lead tetra ethyl in a proportion exceeding one part to nine hundred and fifty parts in volume.

(2) Notwithstanding any other provisions, including section 7 of this Act, or of any licence issued under any other provisions of this Act, no person shall manufacture lead tetra ethyl or sell, import, possess or use any ethyl petrol or concentrated ethyl fluid otherwise than in accordance with any regulations applicable thereto made under this Act.

**Control of import, export, manufacture, sale, etc.  
Of psychotropic substances**

**30.** (1) In this section, “psychotropic substance” means any of the substances specified in the Third Schedule.

(2) The Minister may, from time to time, after consultation with the Poisons Board, by order published in the *Gazette* amend the Third Schedule.

(3) Notwithstanding any other provisions in this Act, no person shall import, export, manufacture, compound, mix, dispense, sell, supply, administer, possess or use any psychotropic substance otherwise than in accordance with any regulations applicable thereto made under this Act.

(4) In any prosecution for an offence under this section, any person who is found to have in his custody or under his control any psychotropic substance shall be deemed to have been in possession of the substance and to have known the nature of the substance, until he proves the contrary.

(5) Any person who contravenes subsection (3) or any regulations made under this Act relating to psychotropic substances shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding four years or both.

**Powers of investigation, examination and  
entry into premises**

**31.** (1) The Licencing Officer may authorize in writing any registered pharmacist in the public service to exercise the powers of a Drug Enforcement Officer under this Act.

(2) A Drug Enforcement Officer may investigate the commission of an offence under this Act.

(3) A Drug Enforcement Officer making an investigation under subsection (2) may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(4) The person referred to in subsection (3) shall be bound to answer all questions relating to the case put to him by the Drug Enforcement Officer except that he may refuse to answer any question if the officer fails or refuses on demand to produce to him the authorization in writing given by the Licensing Officer to the officer under subsection (1) and that such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(5) A person making a statement under this section shall be legally bound to state the truth whether or not such statement is made wholly or partly in answer to questions.

(6) A Drug Enforcement Officer examining a person under subsection (3) shall first inform that person of the provisions of subsections (4) and (5).

(7) A statement made by any person under this section shall, whenever possible, be reduced into writing and, after it has been read to the person in the language in which he made it and he has been given an opportunity to make any corrections he may wish, shall be signed by him or affixed with his thumbprint.

(8) When any Drug Enforcement Officer, any police officer not below the rank of Inspector or any Senior Customs Officer has reasonable cause to believe that an offence under this Act or any regulation made thereunder has been or is being committed in any premises or in connection with any business carried on in any premises, he may at all reasonable times by himself or by some other person accompanying him and acting under his instructions and in his presence enter, search and examine such premises and may inspect, remove and detain any substance reasonably believed to be or to contain a poison, book, document, equipment, instrument, material or any other article found therein which in his opinion may furnish evidence of the commission of an offence under this Act or any regulation made thereunder and may, in case of obstruction or resistance, break open any outer or inner door of such premises and any cupboard, chest, trunk, package or other receptacle and by force if necessary, enter upon any part of such premises and remove any obstruction to such entry, search and seizure and detain any person found in such premises until the search has been completed.

(9) Any police officer not below the rank of Inspector or any Senior Customs Officer may, in the exercise of his powers under subsection (8), arrest any person, being in such premises, in whose possession such article may be found or who is reasonably suspected by such officer to have concealed or deposited such article therein.

(10) Any person who obstructs or impedes a Drug Enforcement Officer in the performance of his duties under this Act or any regulation made thereunder shall be guilty of an

offence and shall be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding one year or to both.

### **Penalties**

**32.** (1) Any person who wilfully fails to keep any book required to be kept under this Act or under any regulation made thereunder or who wilfully fails to make in such book any entry required to be made by any of this Act or of any regulation made thereunder or who knowingly or recklessly makes any false entry in such book which he knew to be false or which he did not believe to be true shall be guilty of an offence and punishable by a fine not exceeding five thousand ringgit or by imprisonment for a term not exceeding two years or both.

(2) Any person guilty of an offence against this Act, for which no other penalty is specifically provided by this Act or by any regulations made thereunder, shall be punishable by a fine not exceeding two years or both.

Provided that if the act or omission with which such person is charge is in the opinion of the court of such a nature as to amount to wilful default or culpable negligence, which endangered or was likely to endanger human life, such person shall be liable, on conviction, to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years to both.

(3) Where a person charged with an offence against this Act or of any regulation made thereunder is a body corporate every person who, at the time of the commission of such offence, is a director or officer of such body corporate may be charged jointly in the same proceedings with such body corporate and where the body corporate is convicted of the offence charge, every such director or officer shall be deemed to be guilty of such offence unless he proves that the offence was committed without his knowledge or that he took reasonable precautions to prevent its commission.

(4) Any person who would have been liable under this Act or of any regulation made thereunder to any penalty for anything done or omitted if such thing had been done or omitted by him personally, shall be liable to the same penalty if such thing has been done or omitted by his partner, agent, or servant, unless he proves that he took reasonable precaution to prevent the doing or omission of such thing.

(5) Any person in respect of which an offence against this Act has been committed shall be forfeited and delivered to the Director-General of Health for disposal.

(6) Every penalty or forfeiture imposed under this Act shall be in addition to, and not in substitution for, any other penalty to which the accused may be liable under any other law, and no conviction under this Act shall be pleaded in any civil proceedings in mitigation of damages claimed against the person convicted.

### **Sessions or Magistrate's Court, to have full jurisdiction Over offences against this Act**

- 33.** A Session Court or a Court of a First Class Magistrate in West Malaysia or a Session Court in the State of Sabah or Sarawak shall have jurisdiction to hear and determine all prosecutions under this Act and, notwithstanding anything to the contrary contained in any other written law, a Session Court shall have powers to impose the full penalty or punishment provided by this Act.

#### **Sanction to prosecute and conduct of prosecutions**

- 34.** (1) No prosecution shall be instituted under this Act or any regulation made thereunder without the sanction in writing of the Public Prosecutor.

(2) Prosecutions in respect of offences under this Act or any regulation made thereunder may be conducted by any registered pharmacist in the public service authorized in writing by the Public Prosecutor.

#### **Regulations**

- 35.** (1) The Minister may make regulations to carry out the purposes of this Act and, in particular, but without prejudice to the generality of the foregoing powers, may make regulations with respect to any of the following matters or for any of the following purposes:

- (a) the importation of poisons;
- (b) the manufacture of preparations containing poisons;
- (c) the sale, whether by wholesale or retail, or the supply of poisons, by or to any person or class of persons including –
  - i) regulating or restricting the sale or supply of poisons by persons licensed under this Act and prohibiting the sale of any specified poison or class of poisons by any class of such persons; and
  - ii) dispensing with, or relaxing with respect to any specified poison, any of the provisions contained in this Act, or in any regulation made thereunder relating to the sale of poisons;
- (d) the storage, transport and labelling of poisons;
- (e) the containers in which poisons may be sold or supplied;
- (f) the addition to poisons of specified ingredients for the purpose of rendering them readily distinguishable as poisons;
- (g) the compounding and dispensing of poisons;

- (h) the period for which any books required to be kept for the purposes of this Act are to be preserved;
- (i) requiring persons in control of the manufacture of pharmaceutical preparations containing poisons to be registered pharmacists or persons possessing the prescribed qualifications in chemistry;
- (j) prescribing the covering, stoppers and fastenings of and the marks to be placed or made on or on the coverings of or on the labels affixed to any vessels, bottle, case, package, box or other receptacle or container whatsoever in which any poison is kept, stored, sold or in any way dealt with;
- (k) providing exemption from the operation of this Act or of any regulation made thereunder of such persons or classes of persons as may seem expedient;
- (l) prescribing the form of licences, registers and returns;
- (m) fixing fees and exempting any person or body of persons from the payment of such fees;
- (n) prescribing anything which may be prescribed under this Act;
- (o) the import, manufacture, possession, sale or use of lead tetra ethyl, ethyl petrol or concentrated ethyl fluid;
- (p) prescribing penalties not exceeding the penalties prescribed in section 32 (2) for contravention of any regulation made under this section;
- (q) the sale, whether by wholesale or retail, or the supply of psychotropic substances by or to any person or class of persons;
- (r) the storage, transport and labelling of psychotropic substances;
- (s) the compounding, dispensing and mixing of psychotropic substances;
- (t) the import, export, manufacture, possession, purchase or use of psychotropic substances;
- (u) requiring persons in possession of psychotropic substances to keep and maintain a register and prescribing the manner in which the register should be maintained;

- (v) prescribing the mode or the manner of disposal and sampling of psychotropic substances.

### **Confirmation of Regulations**

(2) All regulations made by the Minister under this Act shall be published in the *Gazette* and shall come into force on the date of publication or on such other date as may be provided therein.

(3) All such regulations shall be laid as soon as conveniently may be before the House of Representative and if a resolution of the House of Representative is passed within the next three months after any such regulation is laid before it that such regulation shall be annulled as from a specified date such regulation shall be void as from such date but without prejudice to the validity of anything done under such regulation before such date or to the making of a new regulation.