

HE306

## POISONS ACT 1964

## POISONS AMENDMENT REGULATIONS (NO. 2) 1993

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Poisons Amendment Regulations (No. 2) 1993*.

**Principal regulations**

2. In these regulations the *Poisons Regulations 1965\** are referred to as the principal regulations.

[\* Reprinted as at 7 January 1993.]

**Regulation 2 amended**

3. Regulation 2 of the principal regulations is amended —
  - (a) by inserting after the definition of “approved name”, the following definition —

“ **chief executive officer**” means the chief executive officer of the department; ”;

- (b) by inserting after the definition of "poisons cupboard", the following definition —
- " "psychiatrist" means a medical practitioner whose name is contained in a register under section 89 (1) of the *Mental Health Act 1962*; "
- (c) in the definition of "qualified person", by deleting "Permanent Head" where it occurs in paragraphs (b) and (d), and substituting the following —
- " chief executive officer "; and
- (d) by deleting the definition of "SUSDP" and substituting the following definition —
- " "SUSDP" means the "Standard for the Uniform Scheduling of Drugs and Poisons No. 7" published by the Australian Government Publishing Service, Canberra, being a consolidation of the National Health and Medical Research Council up to the 64th meeting of the Council's Drugs and Poisons Schedule Committee, February 1992 and includes Amendment No. 1 adopted by the Council's Public Health Committee on 4 September 1992, acting on the delegation given by Council at the 111th session. "

#### Regulation 8A amended

4. Regulations 8A (6) and 8A (7) are repealed and the following subregulations are substituted —

"

- (6) A detailer shall not procure, carry or supply a sample —
- (a) in the case of an oral contraceptive, for more than 2 months use; or
- (b) in any other case, for more than 7 days use,

where the use is in accordance with directions with the sample for maximum dosage, unless the person wishing to be supplied with a larger sample has first made a written request to the manufacturer or wholesale dealer represented by the detailer for the supply of the sample.

- (7) Subregulation (6) does not apply to a sample of a proprietary preparation where —

- (a) the sample is the smallest size manufactured for sale; and
- (b) the chief executive officer, on the recommendation of the Poisons Advisory Committee, has declared such a sample to be a sample to which subregulation (6) does not apply, notwithstanding that the sample may be used —
- (i) in the case of an oral contraceptive, for more than 2 months; or
- (ii) in any other case, for more than 7 days,

where the use is in accordance with directions with the sample for maximum dosage.

".

**Regulation 48 amended**

5. Regulation 48 (1) of the principal regulations is amended by deleting "holds a licence to manufacture, distribute or sell drugs of addiction by wholesale" and substituting the following —

" is licensed under regulation 4. "

**Regulation 51 amended**

6. Regulation 51 (1) of the principal regulations is amended —

- (a) by deleting "and" after paragraph (a); and
- (b) by inserting "and" after paragraph (ba) (v).

**Regulation 51G amended**

7. Regulation 51G (3) of the principal regulations is repealed and the following subregulation is substituted —

"

(3) The chief executive officer may authorize a medical practitioner to supply any substance referred to in subregulation (1) or to issue, write or authorize a prescription for any such substance to treat a person who has —

- (a) narcolepsy;
- (b) brain damage;
- (c) in the case of a person who is less than 16 years of age, a behavioural disorder;
- (d) depression where the patient is either medically ill or elderly and —
  - (i) is unresponsive to; or
  - (ii) unable to tolerate,

standard treatments or other antidepressant drugs where treatment with the substance has been recommended by a psychiatrist;

- (e) depression that has been —
  - (i) well-documented; and
  - (ii) resistant to a series of standard treatment courses,

where treatment with the substance has been recommended by a psychiatrist;

- (f) depression where the patient is terminally ill and —
  - (i) is unresponsive to; or
  - (ii) unable to tolerate,

standard treatments or other antidepressant drugs where treatment with the substance is for no more than 30 days;

or

- (g) in the case of a person of 16 years of age or more, attention deficit disorder where treatment with the substance has been assessed and recommended in accordance with guidelines approved by the chief executive officer.

"

**Regulations 56, 56A, 56AA, 56B, 56C and 56D repealed and regulations substituted**

8. Regulations 56, 56A, 56AA, 56B, 56C and 56D of the principal regulations are repealed and the following regulations are substituted —

“

**Storing and securing drugs of addiction**

56. (1) A person who is —

- (a) authorized under regulation 42 (1) or 42 (4); or
- (b) licensed under regulation 4,

and who is in possession of a drug or drugs of addiction in an amount that is less than or equal to the amount prescribed by regulation 56A, shall store the drug or drugs in a safe of a kind prescribed by clause 1 of Appendix M.

(2) A person who is —

- (a) authorized under regulation 42 (1); or
- (b) licensed under regulation 4,

and who is in possession of a drug or drugs of addiction in an amount that is greater than the amount prescribed by regulation 56A, shall store the drug or drugs in a safe of a kind prescribed by clause 1 of Appendix M with the additional security requirements prescribed by clause 2 of that Appendix.

(3) Subregulations (1) and (2) do not apply —

- (a) to a pharmaceutical chemist in possession of a drug of addiction for the purposes of his or her profession or employment who stores the drug in a safe —
  - (i) of a type that was prescribed by regulation 56A (2) or (3), and
  - (ii) that was in place and used by him or her, immediately before the commencement of the *Poisons Amendment Regulations (No. 2) 1993*;
- (b) to a person who has the written permission of the chief executive officer to store a drug of addiction in a manner and with such security arrangements as are specified by the chief executive officer and who stores and secures the drug of addiction in such manner;
- (c) to a person to whom regulation 52 (2) applies where that person is in possession of a drug of addiction that he or she has prepared for supply, in accordance with a prescription; or
- (d) where a drug of addiction in an amount that is no more than would reasonably be required for administration to a patient in an emergency is —
  - (i) transported by a medical practitioner, dentist or veterinary surgeon for the purpose of his or her profession or practice; or
  - (ii) otherwise in the possession of a medical practitioner, dentist or veterinary surgeon, if that medical practitioner, dentist or veterinary surgeon, takes reasonable precautions to protect the drug against theft or loss.

(4) This regulation is subject to regulations 56E and 56G.

**Prescribed amount of drugs of addiction**

**56A.** (1) For the purposes of regulations 56 (1) and (2), the amount is —

- (a) 200 tablets or capsules, or tablets and capsules; or
- (b) 20 ampoules; or
- (c) 500 millilitres of liquid; or
- (d) 7.5 grams,

of any drug, or drugs, of addiction.

(2) A drug of addiction in the form of —

- (a) 1 litre or less of methadone syrup that has been supplied by the Western Australian Alcohol and Drug Authority established under the *Alcohol and Drug Authority Act 1974*; or
- (b) a suppository,

shall not be included in the assessment of the amount under subregulation (1).

**Location of safe in premises**

**56B.** Where a person stores a drug of addiction in a safe in accordance with regulation 56 (1) or (2), the person shall ensure that the safe is not in a part of the premises that is accessible to the public unless the person is present in that part of the premises when a member of the public is also present.

**Authorized persons to keep keys to safes**

**56C.** Where a person stores a drug of addiction in a safe in accordance with regulation 56 (1), (2) or (3) (a), and the safe is of a kind that may be locked by a key, the person shall —

- (a) keep the key to the safe in his or her immediate and personal possession; or
- (b) ensure that the key to the safe is in the immediate and personal possession of a person who has been authorized by the chief executive officer to have possession of the key.

**Safes to be kept locked**

**56D.** (1) A person who, under regulation 56C, is in possession of the key to a safe in which is stored a drug of addiction shall ensure that the safe is kept locked at all times except when items are being placed into, or being removed from, the safe.

(2) Where a person stores a drug of addiction in a safe in accordance with regulation 56 (1), (2) or (3) (a), and the safe is of a kind that may be locked by a combination lock, the person shall ensure that the safe is kept locked at all times except —

- (a) when items are being placed into, or being removed from, the safe; or
- (b) during the hours of business if the lock is in the view of the person, in which case and during which time the safe may be unlocked, but shall be closed.

**Pharmacist present on premises**

**56E.** A pharmaceutical chemist who is —

- (a) authorized to be, and is, in possession of a drug of addiction; and
- (b) present on the pharmacy premises,

for the purpose of his or her profession or employment may, instead of storing the drug in accordance with regulation 56 (1), (2) or (3) (a), as the case requires, store the drug in a poisons cupboard or in a lockable drawer.

**Keys to, and locking of, poisons cupboards and lockable drawers**

**56F.** A pharmaceutical chemist referred to in regulation 56E shall —

- (a) keep in his or her immediate and personal possession the key to the poisons cupboard or lockable drawer, as the case may be; and
- (b) ensure that the poisons cupboard or lockable drawer, as the case may be, is kept locked at all times except when items are being placed into, or being removed from, the poisons cupboard or lockable drawer.

**Drug of addiction on hospital ward**

**56G.** A drug of addiction may be stored in a hospital ward if the drug is stored in —

- (a) a lockable cupboard in the ward; or
- (b) in a lockable portion of a cupboard in the ward,

where the cupboard, or lockable portion of the cupboard, as the case may be, is used solely for the purpose of storing drugs of addiction.

**Keys to, and locking of, cupboards in hospital wards**

**56H.** The nurse in charge of a ward in which a drug of addiction is stored under regulation 56G shall —

- (a) keep in his or her immediate and personal possession the key to the cupboard or lockable portion of the cupboard, as the case may be; and
- (b) ensure that the cupboard or lockable portion of the cupboard, as the case may be, is kept locked at all times except when a drug of addiction is being placed into, or removed from, the cupboard or lockable portion of the cupboard.

**Appendix M inserted**

9. After Appendix L to the principal regulations, the following appendix is inserted —

“

**APPENDIX M**

[Regulations 56 (1) and (2)]

**SAFES AND ADDITIONAL SECURITY FOR STORING  
DRUGS OF ADDICTION****Safes**

1. A safe for the storage of a drug of addiction shall be either —

- (a) a free-standing safe as follows —
- (i) weighing at least 500 kilograms, but if the weight is less than 1 tonne, then the safe shall be securely bolted through a concrete floor by a person who is licensed under the *Security Agents Act 1976* as a security agent or guard to install safes;
  - (ii) lockable by means of either a key or a combination lock;
  - (iii) having a steel plate door at least 12 millimetres thick, with at least 2 locking bolts that are at least 25 millimetres thick; and
  - (iv) having the manufacturer's recommendation that items with a total value of at least \$30,000 stored in the safe be eligible for insurance cover;

or

- (b) an under-floor safe as follows —
- (i) embedded in concrete by a person who is licensed under the *Security Agents Act 1976* as a security agent or guard to install safes;
  - (ii) lockable by means of a combination lock;
  - (iii) having a heavy cast, high tensile steel lid that is secured at least 25 millimetres below a steel top plate that is at least 25 millimetres thick; and
  - (iv) having the manufacturer's recommendation that items with a total value of at least \$30,000 stored in the safe be eligible for insurance cover.

**Additional security requirements**

2. (1) A drug or drugs of addiction in an amount greater than the amount prescribed by regulation 56A shall be protected by a detection device complying with the Australian Standard having the designation AS 2201.3 and entitled "Intruder alarm systems Part 3: Detection devices for internal use" published by the Standards Association of Australia including any amendment thereto made before the commencement of the *Poisons Amendment Regulations (No. 2) 1993*.

(2) The detection device shall be able to detect the presence of a person who interferes, or attempts to interfere, with —

- (a) the safe in which the drug is, or drugs are, stored; or
- (b) the device's alarm control panel.

(3) The detection device and its alarm control panel shall be —

- (a) monitored by a dedicated direct line; and
- (b) installed by a person who is licensed under the *Security Agents Act 1976* as a security agent or guard to install that kind of device and alarm control panel.

#### Amendments consequential to "chief executive officer"

10. (1) The principal regulations are amended by deleting "Permanent Head" wherever it occurs in the provisions referred to in the Table to this subregulation and substituting in each place the following —

" chief executive officer ".

#### TABLE

reg. 4 (2)	reg. 43 (2)	reg. 51E (7)
reg. 8A (4)	reg. 43A	reg. 51F (1)
reg. 8A (15)	reg. 45 (2)	reg. 51F (2)
reg. 12 (1)	reg. 47 (3)	reg. 51F (4)
reg. 14	reg. 47 (4)	reg. 51F (5)
reg. 15	reg. 47 (6)	reg. 51F (8)
reg. 17	reg. 48 (1)	reg. 51F (9)
reg. 25	reg. 48 (2)	reg. 52 (6a)
reg. 26	reg. 49	reg. 52 (7)
reg. 34D (1)	reg. 50	reg. 52B (1)
reg. 36 (3)	reg. 51 (2)	reg. 53 (2)
reg. 39A (2)	reg. 51B	reg. 54 (1)
reg. 39A (3)	reg. 51C	reg. 59
reg. 40 (1)	reg. 51D	reg. 60 (2)
reg. 42 (1)	reg. 51E (1)	reg. 61
reg. 42 (3)	reg. 51E (3)	
reg. 43 (1)	reg. 51E (6)	

(2) The principal regulations are amended by deleting "chief executive officer of the department" wherever it occurs in the provisions referred to in the Table to this subregulation and substituting in each case the following —

" chief executive officer ".

#### TABLE

reg. 38D (1a)	reg. 38E	reg. 38F (1a)
reg. 41B (2)	reg. 44 (1)	reg. 51G (4)

Forms 1A, 2A, 3A, 5A, 6A, 6C, 7A, 8, 8A, 10, 11AB, 12, 13 and 13A.

By His Excellency's Command,

D. G. BLIGHT, Clerk of the Council.