

WESTERN AUSTRALIA.

THE PHARMACY AND POISONS ACT, 1910-1937.

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PHARMACY AND POISONS ACT, 1910-1937.

No. 7 of 1910.

Reprinted as amended by the Act No. 51 of 1937, pursuant to the Amendments Incorporation Act, 1938, and the sections renumbered in arithmetical order.

AN ACT to compile certain Acts relating to Pharmacy and the Sale of Poisons.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. (1) This Act may be cited as the *Pharmacy and Poisons Act, 1910-1937.*

Short title.
No. 51 of
1937, s. 23.

(2) This Act is a compilation of the Acts mentioned in the First Schedule hereto.

First
Schedule.

2. This Act is divided into six Parts, as follows:—

PART I.—PRELIMINARY: SS. 1-3.

Division of
Act.

PART II.—THE PHARMACEUTICAL SOCIETY
OF WESTERN AUSTRALIA: SS.
4-12.

58 Viet., No.
35, s. 1.

PART III.—THE PHARMACEUTICAL REGISTER
OF WESTERN AUSTRALIA: SS.
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PART IV.—REGISTRATION OF PHARMA-
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PART V.—SALE OF POISONS: SS. 25-43.

PART VI.—MISCELLANEOUS: SS. 44-53.

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58 Vict., No.
35, s. 5.

No. 51 of
1937, s. 2.

No. 51 of
1937, s. 2.

No. 51 of
1937, s. 2.

No. 51 of
1937, s. 2.

3. In the construction of this Act, except where the subject matter or the context otherwise indicates:

“Automatic machine” means any machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier or his employee or other agent at the time of the sale or supply.

“Company” means any company registered under the provisions of the Companies Act, 1893, or any Act amending the same.

“Council” means the Council of the Pharmaceutical Society of Western Australia.

“Gazette” means the *Government Gazette* of Western Australia.

“Pharmaceutical chemist” means a pharmaceutical chemist registered under the provisions of this Act, or of the Acts of which this Act is a compilation.

“Register” means the Pharmaceutical Register of Western Australia.

“Regulations” means the regulations made under this Act, or the Acts of which this Act is a compilation.

“Sale” includes exposing or offering for sale or having in possession for sale and also delivery, whether with or without consideration, in any shop or store or premises appurtenant thereto by the keeper thereof or by his servant or agent; and the verb “to sell” has a corresponding meaning.

“State” means the State of Western Australia.

“Wholesale dealing” means—

(a) sale or supply by wholesale dealers in the ordinary course of wholesale dealing to persons licensed or specifically authorised by this Act or the regulations thereunder, or by any other Act or regulations, to be in possession of or to sell or supply poisons or poisonous substances or preparations or narcotic or dangerous drugs or potent drugs or other substances or preparations to which this Act applies; and

(b) sale or supply by wholesale dealers or other dealers of the several articles mentioned in paragraph (a) hereof to any persons, other than those persons mentioned in the said paragraph when the said articles are sold or supplied in wholesale quantities in the ordinary course of wholesale dealing for use in connection with any profession, business, trade, or industry, or any public institution to which the Governor by proclamation shall declare this paragraph to apply and not intended for resale or supply retail.

PART II.—THE PHARMACEUTICAL SOCIETY OF WESTERN AUSTRALIA.

4. The Pharmaceutical Society already established in the State shall be the Pharmaceutical Society of Western Australia, and may retain that name and title, and all pharmaceutical chemists, within the meaning of this Act, shall be members thereof.

Constitution of Society.
58 Vict., No. 35, s. 6.

5. (1) For the management of the said society there shall be a council, to consist of a president and six other members, under the style of "The Council of the Pharmaceutical Society of Western Australia."

Constitution of Council.
See 58 Vict., No. 35, ss. 7, 8.

(2) The members of the council holding office at the commencement of this Act shall, subject to this Act, continue to hold office until the expiration of the period for which such members were elected, that is to say until the thirty-first day of March, one thousand nine hundred and thirteen.

6. (1) The council, under the style aforesaid, shall be a body corporate, with perpetual succession, and a common seal, and shall be capable of suing and being sued in its corporate name, and of acquiring, holding, and disposing of real and personal property.

Council a body corporate.

Power of Council in relation to land.

No. 51 of 1937, s. 3.

(2) The council shall be deemed to have the powers of an institution within the meaning of the Public Institutions and Friendly Societies Lands Improvement Act, 1892, and may exercise in respect of lands vested in the council such powers as are thereby given to institutions:

Provided that the portions of the said Act requiring the concurrence of three-fourths of the members of an institution shall for the purposes of this Act be deemed to be eliminated.

(3) The council shall also have power, subject to subsection (5) hereof, to sell, lease, or exchange any lands vested in it, and to pay or receive money by way of equality of exchange.

(4) The powers of selling, exchanging, mortgaging, or leasing lands which are conferred upon the council by this Act shall extend to land held in trust for any special purpose, notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the like trusts, so far as may be, as the land so disposed of.

(5) No power conferred by subsections (2), (3), or (4) of this section shall be exercised by the council without the consent of the Governor.

Election of Council.

See 58 Vict., No. 35, s. 9.

7. (1) At the expiration of the period for which the existing members of the council were elected to hold office, and at the expiration of every succeeding three years, the pharmaceutical chemists registered under this Act may, in manner prescribed by the regulations, elect seven persons to form the council, who shall hold office for the three years next following their election.

(2) No person other than a pharmaceutical chemist shall be eligible for election.

(3) At the first meeting of every council so elected the members thereof shall elect one of their number to be president, who shall hold office during the period for which such council is elected.

(4) The members of the council retiring at the end of any three years shall be eligible for re-election.

(5) Every pharmaceutical chemist shall be entitled to one vote for each member of the council to be elected.

Removal of members of Council.

58 Vict., No. 35, s. 10.

Election to fill vacancy occurring in Council.

58 Vict., No. 35, s. 11.

8. The Governor may, from time to time, remove the president or any other member of the council.

9. If any member of the council dies, resigns, is removed, or is absent from the State for three months without the leave of the council, the pharmaceutical

chemists may, in manner prescribed by the regulations, elect thereto any pharmaceutical chemist, and the person so elected shall hold office for the residue of the term during which the member of the council, in lieu of whom he has been elected, would have held office, and no longer.

10. (1) At every meeting of the council each member, including the president, shall have one vote, and the president shall, in case of an equality of votes, have a casting vote in addition to his ordinary vote, and all questions at any meeting of the council shall be decided by a majority of the votes of the members present.

Meetings of the Council. Number of votes of members.

58 Vict., No. 35, s. 12.

(2) A quorum of the council shall consist of not fewer than four members thereof, and in the absence of the president from any meeting of the council the members present may elect one of their number to be chairman of the meeting.

Quorum of Council.

(3) No action or proceedings of the council shall be invalidated by reason of the existence of any vacancy or vacancies therein, provided that the number of members be not reduced below four.

Proceedings of Council not invalidated by reason of vacancies.

11. (1) The council may appoint a registrar, and any other officer necessary for carrying out the provisions of this Act, and may remove any of such officers at any time.

Council may appoint officers.

58 Vict., No. 35, s. 13.

(2) The council may, in its own name, by its registrar or any person thereunto authorised in writing under the hand of the president, commence, carry on, prosecute, and defend any action, complaint, information, or proceeding whatsoever, both civil and criminal. Every court of law shall take judicial notice of the signature of the president to any such authorisation.

Council may sue.

12. (1) The president or any member of the council may examine or question any person attending, or giving evidence before the council, and may administer an oath to, or take a solemn declaration from, such persons.

Council may examine upon oath, etc.

58 Vict., No. 35, s. 14.

(2) If any such person wilfully or knowingly makes any false statement upon such examination or in such declaration, or utters, or attempts to utter, or puts off as true any false, forged, or counterfeit diploma, degree,

Penalty for false statement or declaration, etc.

license, certificate, or other document or writing, such person shall be guilty of a misdemeanour, and, on conviction thereof, shall be liable to be imprisoned for any term not exceeding two years with or without hard labour, or may be dealt with under any other law applicable to his offence.

PART III.—THE PHARMACEUTICAL REGISTER OF WESTERN AUSTRALIA.

Council to keep register.
58 Vict., No. 35, s. 15.

Second Schedule.

13. The council shall, upon the application of any person entitled to be registered as a pharmaceutical chemist under this Act, register the name of the applicant, together with his residence or place of business, his qualification and the date of such registration, in a register to be kept by the council for that purpose in the form contained in the Second Schedule to this Act, or to the like effect, and such register shall be called "The Pharmaceutical Register of Western Australia."

List of pharmaceutical chemists to be published.
58 Vict., No. 35, s. 16.

14. (1) The council shall, in the month of January in every year, cause to be printed, published, and offered for sale, at a reasonable price, a correct list of all pharmaceutical chemists in alphabetical order according to their surnames, with their respective residences or places of business, and shall cause such list to be published at the same time in the *Gazette*.

Copy of *Gazette* to be evidence.

(2) A copy of the *Gazette* containing any such list shall be *prima facie* evidence in all courts of justice, and in all legal proceedings whatsoever, that the persons specified in such list are qualified and registered according to the provisions of this Act, and the absence of the name of any person from such list shall be *prima facie* evidence that such person is not a pharmaceutical chemist.

Fees for registration and examination.
58 Vict., No. 35, s. 17.

15. The fees for registration as a pharmaceutical chemist, or for any examination required by this Act, shall be such as from time to time are prescribed by the regulations, and shall be paid to the council previously to any such registration or examination.

License to practise as a pharmaceutical chemist.
No. 51 of 1937, s. 4.

16. (1) No pharmaceutical chemist shall practise or carry on business as a pharmaceutical chemist, or either as agent, employee, or otherwise be engaged with any

other person in the practice or business of a pharmaceutical chemist, except under the authority of a license from the council as prescribed by the regulations.

Penalty: Fifty pounds.

(2) An application for a license under this section shall be made in the prescribed manner, and shall be accompanied by the prescribed fee, which shall not exceed twenty-one shillings, and every license under this section shall be in the prescribed form.

(3) An applicant whose application is refused by the council may appeal against such refusal. Such appeal shall be made in the prescribed manner to the Governor, who may by order in council direct the council to grant the license applied for.

(4) Every license issued under this section shall, unless cancelled, remain in force until the thirtieth day of June next ensuing after the date of the issue thereof.

(5) Any registered pharmaceutical chemist convicted of an offence under subsection (1) hereof shall be liable, at the discretion of the council, to have his name erased from the register for such period and subject to such conditions as the council may determine:

Provided that an appeal may be made in the prescribed manner to the Governor against the decision of the council, and the Governor, on such appeal, may affirm, set aside, or vary the decision appealed against.

17. No pharmaceutical chemist, whether holding a license under section sixteen of this Act or not, shall practise or carry on business as a pharmaceutical chemist or druggist or either as agent, employee, or otherwise be engaged with any other person in such practice or business in more than two places of business concurrently.

Chemists not to carry on business in more than two places of business concurrently.

No. 51 of 1937, s. 4.

Penalty: Fifty pounds.

18. The council shall from time to time make all necessary alterations in the register relating to the qualifications and addresses of pharmaceutical chemists, and may write or cause to be written a letter addressed to any pharmaceutical chemist, according to his last known

Necessary alterations to be made in register.

58 Vict., No. 35, s. 18.

address, to inquire whether he has changed his residence or place of business. Such letter shall be registered, and if no answer be returned to such letter within the period of six months from the sending thereof, the council may erase the name of such pharmaceutical chemist from the register, and shall restore the same to such register upon the personal application of such pharmaceutical chemist and production of his certificate or satisfactory proof of his former registration, and payment of all fees in arrear.

Change of address or death of pharmaceutical chemist to be notified.

58 Vict., No. 35, s. 19.

19. Every pharmaceutical chemist on changing his residence or place of business shall intimate the same to the council, and the Registrar General of Western Australia, on receiving information of the death of any pharmaceutical chemist, shall forthwith transmit notice thereof by post to the registrar of the Pharmaceutical Society of Western Australia, and on receipt of such notice such registrar shall inform the council thereof, and the council shall remove the name of such chemist from the register.

Pharmaceutical chemist may be struck off register.

58 Vict., No. 35, s. 20.

20. (1) If any pharmaceutical chemist is convicted of any offence which, in the opinion of the council, renders him unfit to practise as a pharmaceutical chemist, the Governor may, upon the application of the council, order the name of such pharmaceutical chemist to be erased from the register, and the council shall erase such name accordingly.

No. 51 of 1937, s. 5.

(2) When the name of a pharmaceutical chemist has been erased from the register as provided for in subsection (1) hereof, any license issued to him under section sixteen of this Act shall be deemed to be thereby cancelled.

No. 51 of 1937, s. 5.

(3) Provided that the council may at any time after the name of a pharmaceutical chemist has been erased from the register as aforesaid, subject to the regulations and upon payment of the prescribed fee, reinstate the name of such pharmaceutical chemist in the register, and thereupon the license under section sixteen aforesaid, deemed to have been cancelled by virtue of subsection (2) hereof, shall again become of full force and effect, unless it shall have expired by effluxion of time.

PART IV.—REGISTRATION OF PHARMACEUTICAL CHEMISTS.

21. Any person may obtain from the council a certificate, in the form contained in the Third Schedule, that he has been duly registered as a pharmaceutical chemist, if he has attained the age of twenty-one years, and

Qualification to be registered as pharmaceutical chemist.

Third Schedule.

See 58 Vict., No. 35, s. 21; 68 Vict., No. 36, s. 3.

- (a) Is a member of the Pharmaceutical Society of Western Australia at the time of the passing of this Act; or
- (b) For at least four years has served as an apprentice in the business of a chemist and druggist or pharmaceutical chemist in any State of the Commonwealth, or in the Dominion of New Zealand, in the keeping of open shop for the compounding and dispensing of prescriptions of legally qualified medical practitioners, and has passed all examinations prescribed by the regulations or examinations which, in the opinion of the Board, are equivalent thereto; or
- (c) Holds a certificate or diploma of competency as a pharmaceutical chemist, or as a chemist and druggist from any society, college, or board of pharmacy recognised by the regulations.

22. (1) Any person applying for registration under qualification (b) must take a declaration, in the form contained in the Fourth Schedule, before a justice of the peace, and forward the same to the council, and shall produce his certificate that he has passed the examinations required by this Act.

Manner of application. See 58 Vict., No. 35, s. 22.

Fourth Schedule.

(2) Such declaration shall be accompanied by a certificate of the chemist and druggist, or pharmaceutical chemist to whom the applicant has been apprenticed, in the form as contained in the Fourth Schedule.

Declaration to be supported by certificate.

(3) Any person applying for registration under qualification (c) shall annex to his application the certificate or diploma entitling him to apply, for the inspection of the council.

23. The council shall control and direct all examinations they may think fit to require for the purposes of this Act, in practical pharmacy, chemistry, botany,

Council may direct examinations. 58 Vict., No. 35, s. 23.

materia medica, the Latin language, and such other subjects as may from time to time be prescribed by the regulations.

Council may grant or refuse certificates.

58 Vict., No. 35, s. 24.

24. The council may, upon the results of the examinations held under this Act, grant or refuse all certificates of competency, skill, knowledge and qualification to practise the business or calling of a pharmaceutical chemist.

PART V.—SALE OF POISONS.

Definition of poisons. Fifth Schedule.

58 Vict., No. 35, s. 25

25. The several articles mentioned in the Fifth Schedule shall be deemed poisons within the meaning of this Act. Provided always, that the Governor, by proclamation duly published in the *Gazette*, may, from time to time, declare that any other article specified in such proclamation shall be deemed a poison within the meaning of this Act, and on such proclamation being so published such article shall be deemed a poison within the meaning of this Act.

No. 51 of 1937, s. 6.

Provided also that the Governor, on the recommendation of the council, may by proclamation do all or any of the following things, namely:—

- (a) remove the name of any article from either Part I. or Part II. of the Fifth Schedule to this Act;
- (b) remove the name of any article from Part I. of the said Fifth Schedule and add the name of such article to Part II. of such Schedule;
- (c) remove the name of any article from Part II. of the said Fifth Schedule and add the name of such article to Part I. of such Schedule; and
- (d) amend by adding to, taking away from, varying or modifying any of the items contained in the Ninth Schedule to this Act.

Not to be sold by unlicensed persons.

Sixth Schedule.

58 Vict., No. 35, s. 26.

Amended No. 51 of 1937, s. 7.

26. Every person who sells any poison shall, unless he holds a license from the council in the form contained in the Sixth Schedule, or is exempted by section forty-one of this Act, be guilty of an offence against this Act, and liable, on conviction, to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any term not exceeding twelve months.

27. No such license shall be granted to any person other than a pharmaceutical chemist, who holds a license under section sixteen of this Act, except in places distant at least five miles from the nearest place in which a pharmaceutical chemist who holds a license under section sixteen of this Act has an open shop.

Dealers in poison other than pharmaceutical chemists.
58 Vict., No. 35, s. 27.
61 Vict., No. 36, s. 3.
Amended No. 51 of 1937, s. 8.

28. No such license shall be granted to any person unless such person produces to the council a certificate, in the form contained in the Seventh Schedule, signed by the police or resident magistrate of, and a duly qualified medical practitioner practising in, the district where such person resides, and until such person has paid the fee prescribed by the regulations for such license:

Conditions precedent to grant of license to sell poisons.
Seventh Schedule.
58 Vict., No. 35, s. 28.

Provided that production of the said certificate shall not be necessary in the case of a pharmaceutical chemist who holds a license under section sixteen of this Act.

No. 51 of 1937, s. 9.

29. No such license shall be issued to a company or friendly society, although such company or friendly society is lawfully carrying on business as a pharmaceutical chemist; but such license may be issued to any pharmaceutical chemist entitled thereto for his own use, who is *bona fide* employed by or engaged with such company or friendly society in the business of a pharmaceutical chemist and may be used by him for the benefit of such company or friendly society:

License to sell poison not to be issued in name of a company or friendly society.
No. 51 of 1937, s. 10.

Provided that, where any such license is used by a pharmaceutical chemist for the benefit of any company or friendly society as aforesaid, such company or friendly society, and the manager or other officers thereof respectively and the said pharmaceutical chemist, shall be jointly and severally liable in respect of any offence under this Act committed by any servant or other agent of such company or friendly society in relation to the sale or possession of poisons.

30. (1) Every application for a license to sell poison under this Act shall be made in the manner prescribed by regulations; and subject to this Act and the regulations a license may be issued by the council to the applicant upon payment of the prescribed fee.

Application for license to sell poison.
No. 51 of 1937, s. 16

(2) Every license to sell poison issued under this section shall, unless cancelled, remain in force until the thirtieth day of June next ensuing after the date of the issue of the license.

Licensed persons to observe certain conditions.

58 Vict., No. 35, s. 29.

Manner of keeping poisons.

Particulars of sale to be kept.

No. 51 of 1937, s. 11.

31. Every person licensed under this Act to sell poisons shall—

(a) Keep all poisons in a safe, box, cupboard, drawer, or other place, securely locked or fastened.

(b) Except when sales and purchases of poisons are effected by correspondence, before delivery to the purchaser, inquire his name, place of abode, and occupation, and the purpose for which such poison is required, and make an entry in the form contained in the Eighth Schedule, in a book to be kept at the place of business of the licensee for that purpose, specifying the date of the sale, the name of the purchaser, his place of abode and occupation, the purpose for which the poison is required, the quantity of the poison sold, and sign such entry, and obtain the signature of the purchaser thereto, or, if the purchaser cannot write, insert the words "Purchaser cannot write."

Particulars of sales effected by correspondence.

(c) Whenever sales or purchases of poison are effected by correspondence, retain the letter, telegram, or other document by which such poison is ordered, and make an entry in the said book, so far as is practicable, of the particulars contained in the Eighth Schedule.

Signature of witness to be obtained.

(d) Whenever a witness to the sale of any poison is required by this Act, obtain the signature of such witness to the entry in the said book relating to such poison.

63 Vict., No. 36, s. 3.

Provided that the word "Poisons" in paragraph (b) shall apply only to the poisons mentioned in Part I. of the Fifth Schedule.

Licensed person to produce on demand the book required by sec. 31 to be kept.

63 Vict., No. 36, s. 5.

32. Every person licensed under this Act to sell poisons shall, immediately on demand being made to him at his shop or place of business by a member of the council or its registrar, or any person authorised in writing under the hand of the president or registrar, produce and show the book to be kept under section thirty-

one, and permit the same to be examined, and any person neglecting, failing, or refusing to produce and show such book on demand or to permit the same to be examined, shall be guilty of an offence against this Act, and be liable, on conviction, to the same fine or imprisonment as is mentioned in section thirty-eight.

33. No person shall sell any poison mentioned in Part I. of the Fifth Schedule, ordered by letter, telegram, or other document, to any person with whose signature he is not acquainted, unless such signature has been witnessed, or purports to have been witnessed, by a justice of the peace, legal practitioner, or notary public, or is otherwise authenticated by some person known to the vendor.

Signature of purchaser by correspondence to be proved.

58 Vict., No. 35, s. 30.

63 Vict., No. 36, s. 3.

34. No person shall sell any poison unless the bottle or other vessel, wrapper, or cover, box or case immediately containing the same bears thereon—

Vessels, wrappers, etc., containing "poison" to be so marked.

3 Edw. VII., No. 8, s. 4.

(a) The word "Poison" printed conspicuously in letters not less than three-sixteenths of an inch in size; and

(b) The name of the article, the name and address of the vendor, and the address of the shop or premises from which the article was sold.

All such matter shall be so printed that the purchaser of the article can plainly see the same:

Provided that in the case of patent and proprietary medicines, it will be sufficient if the name and address of the vendor and the word "poison" appear on the outer wrapper in which the immediate container of such patent or proprietary medicine is contained when such immediate container has the word "poison" conspicuously printed thereon and is wrapped in an original wrapper as well as the outer wrapper.

No. 51 of 1937, s. 12.

35. (1) No person shall sell any arsenic or strychnine, or any preparation of arsenic or strychnine, unless in the case of arsenic or any uncoloured preparation of arsenic, it is mixed, before the sale or delivery, with soot or some other black substance in the proportion of one ounce of soot or other black substance at least to one pound of arsenic, and so in proportion for any greater or

Arsenic and strychnine must be coloured.

63 Vict., No. 36, s. 2.

less quantity, and unless, in the case of strychnine or any uncoloured preparation of strychnine, it is coloured with Armenian bole or some other red colouring matter before the sale or delivery thereof.

(2) Provided that, whenever the purchaser states that the arsenic or strychnine, or any preparation thereof respectively, is not required for any pastoral or agricultural use or for the destruction of vermin, but is required for a purpose for which such admixture with colouring matter would, according to the representation of the purchaser, render it unfit (a statement of which purpose is entered in the book required by section thirty-one to be kept and signed as thereby required or specified in the letter therein referred to, as the case may be), such poison may be sold without such admixture.

(3) Every person failing to comply with or acting contrary to any of the provisions of this section shall be guilty of an offence against this Act, and, upon conviction, be liable to the same fine or imprisonment as is mentioned in section thirty-eight.

Persons to whom poisons may not be sold.

58 Vict., No. 35, s. 32.

36. No person shall sell any poison to any person who is apparently under eighteen years of age, or to any person who is unknown to the vendor, unless the sale be made in the presence of some witness who is known to the vendor, and to whom the purchaser is known, and such witness signs his name, together with his place of abode, to the required entry before the delivery of the poison to the purchaser.

Prohibition against sale of poison or the hawking or peddling of poison in a street or public place or from house to house.

No. 51 of 1937, s. 13.

37. No person shall—
 (a) sell; or
 (b) hawk or peddle or distribute or cause to be distributed as a sample
 any poison, narcotic drug or poisonous substance in any street or public place or from house to house.

Penalty: Fifty pounds.

Penalties in respect of keeping and sale of poisons.

58 Vict., No. 35, s. 33.

No. 51 of 1937, s. 14.

38. (1) Any person who—
 (a) sells, hawks, peddles, or distributes, or causes to be distributed any poison, narcotic, drug, or poisonous substance contrary to the provisions of this Act; or

- (b) Neglects or omits to comply with any of the provisions of this Act regulating the sale or keeping of poisons; or
- (c) On the purchase of any poison, gives false information in relation to the particulars required by this Act on the purchase or sale of any poison; or
- (d) Signs his name as a witness to the signature of any person ordering poison by letter, telegram, or other document, or to the sale of any poison to a purchaser who is unknown to him,

shall be guilty of an offence against this Act, and liable upon conviction to a penalty not exceeding one hundred pounds, or to imprisonment for any term not exceeding twelve months, with or without hard labour.

(2) For the purpose of this section, the person on whose behalf any sale is made by an assistant or apprentice shall be deemed to be the person who sells, and such assistant or apprentice shall also be liable to the like penalties as the person on whose behalf he makes such sale.

"Person" to include assistant or apprentice.

39. Any person other than a pharmaceutical chemist, in charge or possession of any poison, who leaves it in any place (whether the same be ordinarily accessible to others or not), unless the bottle or package of whatsoever kind in which such poison is contained is marked "poison," and otherwise duly labelled in the manner provided by section thirty-four, shall be guilty of an offence against this Act, and liable, on conviction, to a penalty not exceeding twenty pounds: Provided always, that this section shall not apply to pharmaceutical chemists in the conduct of their business.

Owner of poisons not to leave them about unlabelled, under a penalty.

58 Vict., No. 35, s. 34.

40. (1) The Governor may, on the recommendation of the council, by order, direct the cancellation of the license of any person to sell poisons deemed by the council unfit to continue to sell poisons.

Cancellation of certificate of dealer in poisons.

58 Vict., No. 35, s. 35.

(2) Where a pharmaceutical chemist holds a license under section sixteen and also a license to sell poison under this Act, and the former license is cancelled as pro-

No. 51 of 1937, s. 15.

vided for in this Act, then the license to sell poison shall also be deemed to be cancelled during such period as the said license under section sixteen aforesaid remains cancelled.

Act not to extend to certain sales of poisons.
No. 51 of 1937, s. 16.

41. Subject to the provisions of this section this Act shall not extend to any person, firm, or company engaged in wholesale dealing in any poison specified in the Fifth Schedule to this Act, or to the sale of any poison when made up or compounded in a medicine by a duly qualified medical practitioner for patients under his care, or by a pharmaceutical chemist carrying on business as a chemist or druggist, or to any medicine compounded according to the prescription of a duly qualified medical practitioner, or in the form of homoeopathic medicine, unless in the crude state or mother tincture, nor to the sale of patent or proprietary medicines when sold by pharmaceutical chemists or other licensed persons, nor to the sale of medicines dispensed by veterinary surgeons for animals under their treatment; nor shall it extend to the sale in the ordinary course of wholesale dealing by any person, firm, or company engaged in wholesale dealing in any of the poisonous substances or preparations specified in the Ninth Schedule to this Act, if an order in writing signed by the purchaser is given for the supply of the same and the bottle or other vessel, wrapper, or cover, box, or case immediately containing the poison or poisonous substance or preparation bears thereon the word "Poison" or "Poisonous substance," as the case may be, and section thirty-four of this Act is in all respects duly complied with in relation to such sales.

Provided that any medicine for external application containing any poison shall not be sold, except in the prescribed type of container, and unless the container bears the word "Poison" printed conspicuously thereon, together with the name and address of the vendor.

Sales of certain poisonous substances except by licensed persons prohibited.
No. 51 of 1937, s. 17.

42. (1) Except as provided by section one hundred and twenty-six of the Vermin Act, 1918, no person other than a person holding a license to sell poison or otherwise authorised by this Act to sell poison without holding such a license shall sell or offer or expose for sale

any of the poisonous substances or preparations specified in the Ninth Schedule to this Act, unless he holds from the council a license to do so as prescribed by the regulations.

Penalty: Fifty pounds.

(2) Any person may apply to the council in the prescribed manner for the issue to him of a license under this section, but shall lodge with his application a certificate from a duly qualified medical practitioner and a certificate from a stipendiary or resident magistrate, or, where there is no such magistrate available within five miles of the place of residence of the applicant, a certificate from a justice of the peace that the applicant is a fit and proper person to hold such license.

(3) The council may issue a license in the prescribed form to sell the poisonous substances or preparations specified in the Ninth Schedule aforesaid to any applicant who complies with the requirements of subsection (2) hereof, upon payment of the fee of five shillings; and such license shall be held by the applicant in all respects subject to the regulations.

(4) Every license issued under this section shall, unless cancelled or suspended, remain in force until the thirtieth day of June next ensuing after the date of the issue thereof.

(5) If any person holding a license under this section is convicted of any offence, or by reason of habitual drunkenness or for any other reason is in the opinion of the council unfit to hold such license, the council may cancel such license, either absolutely or upon such conditions as it may determine, or may suspend such license for the whole or any portion of the unexpired period of the license, as the council may determine.

Provided that the licensee may appeal in accordance with the regulations to the Governor against the decision of the council, and the Governor may affirm, set aside, or vary the decision appealed against.

Provided also, that during such time as a license is suspended as aforesaid, it shall be wholly inoperative as a license.

Sales of drugs and medicines by means of automatic machines prohibited.

No. 51 of 1937, s. 17.

43. Any person who—

- (a) instals any automatic machine for the sale or supply of any drug or medicine or poison, or permits any such automatic machine to be so installed; or
- (b) sells or supplies any drug or medicine or poison by means of any automatic machine; or
- (c) permits or suffers any person to purchase or be supplied with or otherwise obtain any drug or medicine or poison by means of any automatic machine

shall be guilty of an offence.

Penalty: Ten pounds.

PART VI.—MISCELLANEOUS.

Penalties for contravention of the Act.

3 Edw. VII., No. 8, s. 3.

No. 51 of 1937, s. 18.

44. (1) No person other than—

- (a) A pharmaceutical chemist; or
- (b) A company or a friendly society registered under the Friendly Societies Act, 1894-1923, and respectively engaged in carrying on the business of a chemist and druggist or of a pharmaceutical chemist by and under the immediate supervision of a licensed pharmaceutical chemist, provided that such company or friendly society does not employ in the dispensing of medicines more than three persons who are not pharmaceutical chemists to every pharmaceutical chemist who is so employed; or
- (c) A legally qualified medical practitioner, shall carry on the business of a chemist and druggist or pharmaceutical chemist.

Provided that—

- (i) nothing in this section contained shall extend to or be deemed to give any right to a company to carry on such business other than a company now registered and carrying on such business under the immediate personal supervision of a pharmaceutical chemist, and, save as aforesaid, it shall not be lawful for any company or association of persons, not being

No. 51 of 1937, s. 18.

licensed pharmaceutical chemists, to carry on or assist in the carrying on of such business aforesaid, or to assume or use or exhibit any title, direction, or sign which can be considered to mean that such company or association of persons is or are carrying on any such business as aforesaid, or that any of such persons is or are qualified as a pharmaceutical chemist; and

- (ii) every company now carrying on business as aforesaid under the authority of this Act shall be and is hereby limited to the carrying on of such business at one place or shop or premises, and no more; and
- (iii) the legal personal representative of a pharmaceutical chemist who may have died whilst carrying on such business, or any person seizing or taking possession of the stock-in-trade of a pharmaceutical chemist under a mortgage, bill of sale, or other security, or the liquidator of any company in the course of being wound up, or any mortgagee or receiver seizing and taking possession of the stock-in-trade of a company under a mortgage, bill of sale, or other security, may continue to carry on the business of the pharmaceutical chemist or of the company, as the case may be, for a period not exceeding twelve months, or for such further period as may be permitted by the council upon and subject to the express condition that such business is so carried on by and under the immediate personal supervision and management of a duly licensed pharmaceutical chemist; and
- (iv) nothing in this section shall operate so as to prevent a person, not being a company or a friendly society or a registered or licensed pharmaceutical chemist, who has been and still is at the time of the commencement of this paragraph of this proviso carrying on the business of a chemist and druggist, from continuing himself in person to continue to carry on the said business in the same place: provided he does so constantly under the im-

mediate personal supervision of a licensed pharmaceutical chemist until he ceases to carry on such business in such place, or sells, assigns, or otherwise disposes of the said business.

(2) No person other than—

(a) A pharmaceutical chemist; or

(b) A legally qualified medical practitioner, shall assume or use the title of pharmaceutical chemist, pharmacist, chemist and druggist, dispensing chemist, dispensing druggist, homoeopathic chemist, or other words of like import, or use or exhibit any title, term, or sign which can be construed to mean that such person is qualified as a pharmaceutical chemist.

(3) Any person who offends against the provisions of this section shall be liable, on conviction, to a penalty not exceeding fifty pounds, or to imprisonment for any term not exceeding twelve months for every such offence.

Business of pharmaceutical chemist to be carried on by the principal or a qualified assistant.

63 Viet., No. 36, s. 4.

45. (1) No pharmaceutical chemist or legally qualified medical practitioner shall carry on or attempt to carry on the business of a chemist and druggist, or pharmaceutical chemist, or assume or use the title of a pharmaceutical chemist, pharmacist, chemist and druggist, dispensing chemist, homoeopathic chemist or other title of like import, or use or exhibit any title, term, or sign on any shop, house, or premises which can be construed to mean that the business of a pharmaceutical chemist is carried on therein, unless such business is conducted by and under the personal supervision of himself or of an assistant who is a pharmaceutical chemist or a legally qualified medical practitioner.

Chemists and persons licensed to sell poisons to have their names painted up.

No. 51 of 1937, s. 19.

(2) Every pharmaceutical chemist, and every licensed vendor of poisons, and every person or assistant under whose conduct or management the business or any branch of the business of a pharmaceutical chemist is carried on, shall have his name legibly painted or written, and continually so maintained, on a conspicuous place on the front of the building where such business is carried on, and on every label, invoice, or other document which is issued or used in or in connection with such business.

(3) Every person who fails to comply with or acts contrary to any of the provisions of this section shall be guilty of an offence against this Act, and, on conviction thereof, shall be liable to a penalty not exceeding fifty pounds, and an additional penalty of five pounds for every day during which such failure or act continues.

46. Any registrar appointed under this Act, or other person who wilfully makes or causes to be made any false entry in the register; and any person who wilfully procures or attempts to procure himself to be registered under this Act, by making or producing, or causing to be made or produced, any false certificate or diploma of competency or other certificate, or declaration, either verbally or in writing; and any person who aids or assists therein shall be guilty of an offence against this Act, and liable, on conviction, to a penalty not exceeding one hundred pounds, with or without imprisonment for any term not exceeding twelve months.

Penalty on fraudulent registration.
58 Vict., No. 35, s. 37.

47. In any prosecution under sections forty-four or forty-five of this Act, the fact that any person is apparently employed or engaged in any shop, house, or premises where drugs are kept or stored for sale, or acts in the capacity of a salesman therein, shall be *prima facie* proof that such person carries on a business as a pharmaceutical chemist in such shop, house, or premises, and personally conducts and supervises the business carried on therein.

Evidence under ss. 44 and 45.
63 Vict., No. 36, s. 6.

48. All offences against this Act upon which a pecuniary penalty is imposed shall be summarily punishable, and all penalties imposed by this Act shall be recovered in a summary manner before two or more justices of the peace; and all fees payable under this Act shall be paid to the council to be applied towards the expenses of carrying this Act into effect.

Offences and procedure.
See 58 Vict., No. 35, s. 39.
See 1909, No. 4, s. 2.

49. (1) All proceedings in respect of offences against this Act shall be commenced within six months after the offences thereby charged shall have been committed.

Proceedings to be commenced within six months.

(2) No order, judgment, warrant, or other proceeding made or purporting to be made under or concerning the conviction of any offender against this Act shall be

See 58 Vict., No. 35, s. 40.
No *certiorari*.

quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever into any superior court of the State.

Act not to apply to sale of patent or proprietary medicines in certain cases.
58 Vict., No. 35, s. 41.

50. Notwithstanding anything in this Act contained no person shall be liable to any penalty for selling any patent or proprietary medicines in any place which is at least twenty miles distant from the nearest place wherein a pharmaceutical chemist has an open shop.

Provisions relating to apprentices.
No. 51 of 1937, s. 20.

51. No contract of apprenticeship shall be recognised or have any force or effect in law unless and until the council by an indorsement on the instrument evidencing such contract, signifies that it is satisfied that the principal has at his disposal sufficient facilities and material for the proper training of the apprentice.

Council may establish schools and use funds for maintenance of same.
No. 21 of 1937, s. 20.

52. The council may promote, establish, or maintain or assist in the promotion, establishment, or maintenance of schools of pharmacy or of a course of instruction for pharmaceutical students, and may use the funds of the council for any of the purposes aforesaid.

Regulations.
No. 51 of 1937, s. 21.

53. (1) The Governor, either with or without the recommendation of the council, may make regulations, not inconsistent with this Act, for all or any of the following purposes, that is to say:—

Meetings of the Council and conduct of business.

(a) regulating the meetings and proceedings of the council and the conduct of its business;

Election of Council and president.

(b) prescribing the manner of and time and place for electing the members and the president of the council;

License fees and examination and registration fees.

(c) prescribing the annual license fees to be paid by pharmaceutical chemists to the council for the purpose of defraying the expenses necessary to carry out the provisions of this Act, the fees for the examination of persons qualifying to be registered as pharmaceutical chemists, and the fees for the registration of the same;

Additional subjects of examination.

(d) prescribing the subjects, in addition to those prescribed by this Act, for the examination of persons qualifying for registration as pharmaceutical chemists;

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| (e) prescribing that the certificates or diplomas of competency as a pharmacist or as a chemist and druggist of any specified society, college or board of pharmacy shall be recognised by the council; | What pharmacy institutions may be recognised. |
| (f) regulating the issue, cancellation, and suspensions of licenses by the council; | Issue, cancellation, and suspension of licenses. |
| (g) regulating appeals against the decisions of the council in relation to the refusal, cancellation, or suspension of licenses; | Appeals. |
| (h) prescribing forms; | Forms. |
| (i) prescribing fees; | License fees. |
| (j) regulating the manufacture, storage, safe custody and sale of poisons, poisonous substances, and narcotic drugs; | Manufacture, storage, safe custody, and sale of poisons. |
| (k) regulating the colouring of any poison, poisonous substance, or narcotic drug; | Colouring of poisons. |
| (l) providing for the shape, size, and materials of the container or package in which any poison, poisonous substance, or narcotic drug may be sold; | Containers or packages. |
| (m) requiring that the container or package in which any prescribed poison is cased, covered, enclosed, contained or packed for sale (whether by wholesale or retail) shall have printed thereon the name of some effective remedy (if any) to counteract the effects of such poison; | Containers to have printed thereon name of remedy to counteract poison. |
| (n) providing for general or particular inspections by the council, or by any servant or officer of the council authorised in that behalf by writing under the hand of the president of the council, of any books, entries, letters, documents, instruments, or other writings required by the provisions of this Act to be kept by persons subject to the provisions of this Act; | Inspection of books and documents. |
| (o) prescribing all other matters and things necessary to be prescribed or which it is convenient to prescribe for more effectively carrying the provisions of this Act into effect and of achieving the objects of this Act; and | General. |

(p) prescribing a penalty, not exceeding the sum of fifty pounds, to be imposed upon and paid by any person found guilty of any breach or contravention of any regulation made under this Act.

Publication of regulations.
58 Viet., No. 35, s. 43.

(2) All regulations made under this Act shall be laid before both Houses of Parliament within fourteen days from the making thereof if Parliament be then sitting, and if not then sitting, then within fourteen days after the then next assembling of Parliament, and when published in the *Gazette* such regulations shall have the force of law.

Evidence.
Ibid.

(3) A copy of the *Gazette* containing any such regulation shall be *prima facie* evidence in all courts of justice and in all legal proceedings of the due making of such regulation and that it is still in force.

SCHEDULES.

First Schedule.

Acts Compiled.

- 58 Viet., No. 35. Pharmacy and Poisons Act, 1894.
63 Viet., No. 36. Pharmacy and Poisons Act Amendment Act, 1899.
3 Edw. VII., No. 8. Pharmacy and Poisons Act Amendment Act, 1903.
No. 51 of 1937. Pharmacy and Poisons Act Amendment Act, 1937.

Section 13.

Second Schedule.

THE PHARMACY AND POISONS ACT, 1910-1937.

Register of Pharmaceutical Chemists.

Name.	Residence or Place of Business.	Qualification.	Date of Registration.

Third Schedule.

Section 21.

THE PHARMACY AND POISONS ACT, 1910-1937.

Certificate of Registration as a Pharmaceutical Chemist.

We do hereby certify that
residing at
has been duly registered as a pharmaceutical chemist.

Dated at this day of , 19

(Signed) A.B., President of the Pharmaceutical Council of Western Australia.
(Signed) C.D., Registrar

Fourth Schedule.

Section 22.

THE PHARMACY AND POISONS ACT, 1910-1937.

Declaration by Apprentice.

I, of , in the State of Western Australia, do solemnly and sincerely declare—

- 1. That I have attained the age of twenty-one years, and
2. That I have served not less than four years as an apprentice in the business of a chemist and druggist or pharmaceutical chemist in Western Australia (or as the case may be) in the keeping of open shop for the compounding and dispensing of prescriptions of legally qualified medical practitioners.

And I make this solemn declaration by virtue of section one hundred and six of the Evidence Act, 1906.

Declared at Australia, this day of , in the State of Western Australia, 19

Before me, , J.P.

Certificate of Apprenticeship by Master Chemist and Druggist or Pharmaceutical Chemist.

I, a chemist and druggist, or a pharmaceutical chemist, do hereby certify that

of , in the State of Western Australia, to the best of my knowledge and belief has attained the age of twenty-one years, and has served for four years as an apprentice in the business carried on by me of a chemist and druggist, or of a pharmaceutical chemist.

Dated day of , 19

(Signed) of

Section 25.

Fifth Schedule.*List of Poisons.***Part I.**63 Viet., No.
36, Schedule.

Aconite
 Arsenic and its preparations
 Arsenical preparations, except green and other paints and pigments
 All poisonous vegetable Alkaloids, and their salts
 Belladonna and its preparations
 Cannabis Indicus
 Cantharides
 Chloral Hydrate
 Chloroform
 Cocaine and its preparations
 Conium and its preparations
 Corrosive Sublimate
 Croton Oil
 Cyanides of Potassium and all metallic cyanides
 Digitalis and its preparations
 Ergot of Rye and its preparations
 Essential Oil of Almonds, unless deprived of its prussic acid
 Iodine
 Laudanum
 Nux Vomica, bean or powder
 Opium and all preparations of opium or poppies
 Phosphorus
 Prussic Acid and its preparations
 "Rough on Rats"
 Savin and its oil
 Strychnine and its preparations
 Tartar Emetic

Part II.

Butyr of Antimony
 Carbolic Acid
 Chlorodyne
 Colocynth Pulp
 Ether
 Iodoform
 Mercury Subchloride
 Oxalic Acid
 Patent and Proprietary Medicines containing any poison mentioned in Part I. of this Schedule
 Red Precipitate
 Soothing Powders
 Soothing Syrups
 Strong Mineral Acids
 Sugar of Lead
 White Precipitate
 Lysol (see "Government Gazette," 23rd October, 1908)

Section 25.
No. 51 of
1937, s. 22.

Ninth Schedule.

1. Agricultural and horticultural preparations containing any poison intended to be used exclusively for agricultural or horticultural purposes, or for the purpose of destroying birds or animals which are vermin under any Act relating to vermin, or for use exclusively as sheep dips, sheep washes, or weed killers, but so that the preparation when sold is contained in a vessel or receptacle which is adequately sealed.
2. Photographic chemicals consisting of or containing any poison and exclusively used for the purpose of photography.
3. Poisonous preparations intended to be used exclusively for destroying rats, mice, flies, or other insects.
4. Poisonous acids and chemicals for mining or trade purposes, when such are required in large quantities.
5. Such other poisonous substances and preparations as may be added to this Schedule by proclamation.