

No. 3542.

An Act to amend the Poisons Acts and
for other purposes.

[21st December, 1927.]

BE it enacted by the King's Most Excellent Majesty by
and with the advice and consent of the Legislative
Council and the Legislative Assembly of Victoria in this
present Parliament assembled and by the authority of the
same as follows (that is to say) :—

1. (1) This Act may be cited as the *Poisons Act 1927*
and shall be read and construed as one with the *Poisons*
Act 1915 (hereinafter called the Principal Act) and any Act
amending the same all of which Acts and this Act may be
cited together as the Poisons Acts.

Short title
construction
and citation.

Nos. 2707, 3113,
3182, 3401.

(2) Except where otherwise expressly provided this
Act shall come into operation on the first day of January
One thousand nine hundred and twenty-eight.

Commencement
of Act.

(3) This

Division into
Parts.

(3) This Act is divided into Parts as follows:—

Part I.—Cyanide of Potassium, &c.

Part II.—Methylated Spirit.

Part III.—Certain Narcotic and Other Substances and Preparations.

Part IV.—General.

Interpretation.

2. (1) In this Act unless inconsistent with the context or subject-matter—

“Part.”

“Part” means Part of this Act.

“Prescribed.”

“Prescribed” means prescribed by or under this Act.

“Regulations.”

“Regulations” means regulations made under this Act.

Saving.

Nos. 2707 &c.

No. 2658 s. 11;

No. 2893 s. 7;

No. 3398 s. 5;

Nos. 3041 &c.;

Nos. 2683 &c.

(2) This Act shall be read and construed as in aid and not in derogation of any other provisions of the Poisons Acts or of any provisions of the Game Acts or the Health Acts or the Licensing Acts.

References to
Acts,

enactments,

schedules,

regulations and

proclamations.

No. 2707.

(3) It is hereby declared that—

(a) any reference in the Poisons Acts or any other Act to the *Poisons Act 1915* or any Act amending the same or any Part thereof or any enactment therein or schedule thereto or any proclamation or regulation thereunder shall be deemed and taken to refer to the said Act or Part, enactment, schedule, proclamation or regulation as for the time being in force; and

(b) any reference in the Poisons Acts to articles or substances or other things whatsoever specified or included or mentioned in any schedule to the said Acts shall be deemed and taken to include a reference to articles substances or other things added to transferred to inserted in or otherwise included in the said schedule by proclamation under the said Acts.

References to
articles &c.
specified in
schedules.

PART I.—CYANIDE OF POTASSIUM, ETC.

Interpretation.

3. In this Part unless inconsistent with the context or subject-matter—

“Cyanide of
potassium.”

The expression “cyanide of potassium” includes cyanide of potassium, any other metallic cyanide, all poisonous compounds of cyanogen, and any admixtures or preparations thereof.

4. This

4. This Part shall come into operation on a date to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement
of Part.

5. (1) No person shall sell cyanide of potassium (whether by wholesale or retail) unless he is—

Restriction on
sales of cyanide
of potassium.

(a) a medical practitioner ;

(b) a pharmaceutical chemist ;

(c) a person holding a certificate as a dealer in poisons under division one of Part I. of the Principal Act ;

No. 2707
Part I. Div.

(d) a person licensed under this Part to sell cyanide of potassium to be used for mining purposes if sold in quantities of not less than twenty-eight pounds or to sell cyanide of potassium for the purposes (hereinafter called "trade purposes") of any prescribed profession business trade or industry but not for re-sale and in accordance with the provisions of this Part ; or

(e) a wholesale dealer who sells cyanide of potassium in the ordinary course of wholesale dealing and in accordance with the provisions of this Part.

(2) No wholesale dealer shall sell cyanide of potassium to any person who is not authorized to sell cyanide of potassium unless it is sold to be used for mining purposes or for trade purposes but not for re-sale.

As to sales by
wholesale
dealers.

(3) No person (except a person authorized under this section to sell cyanide of potassium) shall purchase cyanide of potassium to be used for mining purposes or for trade purposes unless he holds a permit so to do granted by the Board.

Purchasers &c.
of cyanide of
potassium for
mining purposes
&c. to have
permits.

(4) Sub-section (1) of section sixteen of the Principal Act is hereby amended as follows:—

Amendment of
No. 2707
s. 16 (1).

(a) Paragraph (c) is hereby repealed;

(b) For paragraph (e) there shall be substituted the following paragraph:—

As to limitation
of application
of No. 2707
Part I. Div. 1.

"(e) poisoned material (except material containing cyanide of potassium) for the destruction of vermin within the meaning of the *Vermin and Noxious Weeds Act 1922*"; and

No. 3195 s.3.

(c) In

(c) In paragraph (g) after the word "poisons" there shall be inserted the words "(other than cyanide of potassium)."

Application of No. 2707 Part I. Div. 1 to sales of cyanide of potassium.

6. (1) All sales of cyanide of potassium except—

(a) sales by wholesale dealers in the ordinary course of wholesale dealing where an order in writing signed by the purchaser has been given for the supply of the same ; and

(b) sales of cyanide of potassium to be used for mining purposes if sold in quantities of not less than twenty-eight pounds or to be used for trade purposes but not for re-sale—

shall be subject to the provisions of division one of Part I. of the Principal Act as well as to such of the provisions of this Part as are applicable thereto.

As to purchases thereof.

(2) All purchases of cyanide of potassium (whether by wholesale or retail) shall be made in accordance with the provisions of this Part.

Restrictions on sales by licensees under No. 3113 s. 5.

No. 3113 Part I., First Schedule.

(3) Notwithstanding anything in Part I. of the *Poisons Act* 1920 or the First Schedule thereto a licence under section five of that Act shall not entitle the licensee to sell cyanide of potassium or any of the substances or preparations specified in the First Schedule to that Act if they contain cyanide of potassium.

Sales of cyanide of potassium.

7. (1) At the time of the sale and before delivery of any cyanide of potassium the vendor shall fill in and the purchaser thereof shall sign—

(a) a document in the prescribed form and containing the prescribed particulars ; or

(b) an entry containing the prescribed particulars in a book in the prescribed form kept by the vendor for the purpose.

Purchaser to produce certificate.

(2) No such sale shall be made to any person who is not the holder of a permit under this Part to purchase cyanide of potassium to be used for mining purposes or to be used for trade purposes but not for re-sale unless the purchaser produces to the vendor a certificate in the prescribed form and containing the prescribed particulars and signed by—

(a) a member of the police force in charge of the police station nearest to the place of sale ; or

(b) such

(b) such other person (if any) as is prescribed—
that the purchaser is a fit and proper person to be permitted to purchase cyanide of potassium. No fee shall be chargeable in respect of any such certificate.

8. (1) Licences under this Part for the sale or distribution of cyanide of potassium to be used for mining purposes if sold in quantities of not less than twenty-eight pounds and permits under this Part for the purchase of cyanide of potassium to be used for mining purposes if purchased in quantities of not less than twenty-eight pounds or to be used for trade purposes but not for re-sale—

Licences and permits for sale or purchase of cyanide of potassium to be used for mining purposes.

(a) may be granted by the Board in accordance with the regulations;

(b) shall contain such conditions as are prescribed;

(c) shall unless cancelled be in force until the thirty-first day of December next following the grant or renewal thereof; and

(d) may if the Board is satisfied that the licensee or holder of the permit is a fit and proper person to hold a licence or permit (as the case may be) be renewed from time to time.

(2) The Governor in Council on the recommendation of the Board may by Order direct the cancellation of any licence or permit if the licensee or the holder of the permit—

Cancellation of licences.

(a) is convicted of any offence against the Poisons Acts or the regulations which in the opinion of the Board renders him unfit to hold a licence or permit (as the case may be); or

(b) is in the opinion of the Board unfit through habitual intoxication or otherwise to hold a licence or permit (as the case may be).

9. Any person who acts in contravention of or fails to comply with any of the provisions of this Part or any regulation thereunder or the conditions of any licence or permit thereunder for which a penalty is not expressly provided shall be liable to a penalty of not more than One hundred pounds or to imprisonment for a term of not more than six months.

Penalty for contraventions of this Part or the regulations.

10. (1) For the purposes of ascertaining whether the provisions of this Part or the regulations are being complied with—

Powers of entry inspection &c.

(a) any person authorized in writing in that behalf by the Board (whether generally or in any particular

particular case) or, if authorized and directed by warrant in the prescribed form under the hand of a justice, any member of the police force named in the warrant may—

- (i) enter into and upon the premises of any person selling or offering or exposing for sale or distribution or having in his possession or reasonably suspected of having in his possession any cyanide of potassium:
 - (ii) demand the production of and inspect any stocks of cyanide of potassium in or about such premises; and
 - (iii) require the production of and inspect and make copies of or take extracts from any books or documents relating to dealing in cyanide of potassium by such last-mentioned person; and
- (b) any person so authorized or any member of the police force may stop and detain any vehicle or other means of conveyance and seize and detain any cyanide of potassium found in such vehicle or other means of conveyance with respect to which he has reasonable grounds to believe that there has been a contravention of this Part.

Penalty for
obstruction &c.

(2) Any person who—

- (a) wilfully delays or obstructs any member of the police force or other person in the exercise of his powers under this section ; or
- (b) fails to produce or conceals or attempts to conceal any such books or documents or stocks of cyanide of potassium as aforesaid—

shall be liable to a penalty of not more than Twenty pounds.

Laying &c.
cyanide for
poisoning
animals birds
&c.

No. 2658 s. 11;
No. 2893 s. 7;
No. 3398 s. 5.

11. (1) Without restricting the operation of section eleven of the *Game Act* 1915 as amended by section five of the *Game Act* 1925 any person who kills destroys or injures any animal by cyanide of potassium or any mixture containing the same or lays cyanide of potassium or any mixture containing the same with intent to kill destroy or

injure

injure animals or any kind of insect specified for the purposes of this section by proclamation of the Governor in Council published in the *Government Gazette* shall be liable to imprisonment for a term of not more than twelve months.

(2) Nothing in this section shall apply to the use of cyanide of potassium or any mixture containing the same for the destruction (in manner prescribed by regulations to be made for the purpose)—

(a) of rats mice insects or household vermin in any dwelling-house shop factory warehouse or other substantial building or in any ship ; or

(b) by means of any gas produced from cyanide of potassium—of any vermin within the meaning of the *Vermin and Noxious Weeds Act 1922* or of any reptiles.

(3) For the purposes of this section “animal” includes bird.

12. (1) Without affecting the requirements of any relevant provisions of the Poisons Acts or of any regulations thereunder—

(a) any person authorized to sell poisons who sells any calcium cyanide shall before delivering or forwarding the same to the purchaser pack the same in a hermetically sealed package ;

(b) a person shall not convey to the purchaser any calcium cyanide unless it is packed as aforesaid ; and

(c) every person being the owner or other person in charge or possession of any calcium cyanide shall (except during the conveyance thereof or when the calcium cyanide is actually being used) keep the same securely locked up in a suitable receptacle.

(2) Any person guilty of any contravention of or failure to comply with the provisions of this section shall be liable to a penalty of not more than Twenty pounds.

13. (1) The Governor in Council may make regulations for or with respect to—

(a) licences and permits under this Part and the form thereof and the conditions that may be inserted therein ;

(b) the

Saving.

No. 3195.

As to birds.

Restrictions on sale conveyance and keeping of calcium cyanide.

Penalty.

Regulations.

- (b) the purchase of cyanide of potassium;
- (c) the sale (whether by wholesale or retail) of cyanide of potassium (except the sale of cyanide of potassium so far as such sale is subject to the provisions of division one of Part I. of the Principal Act);
- (d) the possession and distribution of cyanide of potassium;
- (e) the safe custody of cyanide of potassium;
- (f) preventing the improper use of cyanide of potassium;
- (g) the labelling of cyanide of potassium;
- (h) requiring persons engaged in the sale or distribution of or persons holding permits to purchase cyanide of potassium to keep books and furnish information (whether in writing or otherwise) as prescribed;
- (i) the inspection of such books and of entries therein and the making of copies of or extracts therefrom;
- (j) prescribing the conditions under which sales of cyanide of potassium may be made by correspondence (including telegrams and the like means of communication);
- (k) prescribing questions to be put whether by the vendor or any person signing a certificate or any member of the police force on any sale or purchase of cyanide of potassium;
- (l) prescribing the professions businesses trades or industries with respect to which permits may be granted to persons carrying on the same to purchase for the purposes thereof but not for re-sale cyanide of potassium in accordance with this Part;
- (m) exempting from the provisions of this Part any compounds of cyanogen or any admixtures or preparations which by their nature are not capable of being used in evasion of this Part;
- (n) prescribing the fee (not exceeding Five shillings) to be paid for the grant or renewal of a licence under this Part for the sale or distribution of cyanide of potassium to be used for mining purposes; and the fee (not exceeding Two shillings and sixpence) to be paid for the grant

or renewal of a permit hereunder for the purchase of cyanide of potassium for mining purposes or for trade purposes;

- (o) prescribing the form of any warrant or any other forms for the purposes of this Part;
- (p) prescribing a penalty of not more than Twenty pounds for any breach of the regulations; and
- (q) generally, prescribing all such matters and things as are authorized or required to be prescribed or are necessary or convenient to be prescribed for carrying into effect the purposes of this Part.

(2) Any proposed regulations under this section relating to—

- (a) the sale or distribution or the purchase of cyanide of potassium (whether by wholesale or retail) to be used for mining purposes; or
- (b) the possession or safe custody of cyanide of potassium to be so used—

Certain regulations to be approved by Minister of Mines.

shall be approved by the Minister of Mines before being submitted to the Governor in Council.

PART II.—METHYLATED SPIRIT.

14. In this Part unless inconsistent with the context or subject-matter—

Interpretation.

“Methylated spirit” includes—

- (a) any spirit which has been methylated under the provisions of the Commonwealth Act known as the *Spirits Act* 1906–1923 (including any amendment thereof for the time being in force) or the regulations thereunder or has been denatured;
- (b) methyl alcohol and wood spirit;
- (c) any other spirit to which any methylating substance has been added; and
- (d) any potable liquid with which methylated spirit is mixed.

“Methylated spirit.” (Comm.) 1906 No. 21 s. 3.

15. No person shall drink methylated spirit.

Drinking methylated spirit prohibited.

16. No person shall sell or dispose of methylated spirit to any other person if he has reasonable cause to believe that such other person intends—

Sale of methylated spirit to certain persons prohibited.

(a) to use such spirit for drinking purposes; or

(b) to

(b) to give or supply the same to any other person for drinking purposes.

Saving as to wholesale and certain retail cases.

17. The subsequent provisions of this Part relating to the sale or disposal of methylated spirit shall not apply to the sale or disposal thereof—

(a) by wholesale; or

(b) by retail in any quantity exceeding one quart unless any of the containers in which the same is sold or disposed of is of a capacity of one quart or less.

Sale of methylated spirit during prohibited hours.

18. No person shall (except under such conditions as are prescribed) sell or dispose of methylated spirit during any hours during which the sale or disposal thereof is prohibited by the regulations.

Requirements on sale of methylated spirit.

19. Any person who sells or disposes of methylated spirit shall comply—

(a) with the prescribed requirements with respect to the sale or disposal thereof; and

(b) with any provisions of Part II. of the Principal Act or of Part I. of the *Poisons Act 1920* or of any regulation made under section eight of the *Poisons Act 1920* to the extent to which the said provisions are made applicable to methylated spirit by the regulations under this Part.

Application of No. 2707 Part II. and No. 3113 Part I. &c.

Penalty:

20. Any person who acts in contravention of or fails to comply with any of the provisions of this Part or the regulations shall be liable to a penalty of not more than Twenty pounds.

Power to make regulations.

21. The Governor in Council on the recommendation of the Board may make regulations for or with respect to—

(a) the requirements to be complied with by persons selling or disposing of methylated spirit;

(b) the application (with such adaptations as the Governor in Council considers expedient) of the provisions of Part II. of the Principal Act and of Part I. of the *Poisons Act 1920* and of any regulation under section eight of the *Poisons Act 1920* to methylated spirit;

(c) the hours during which the sale or disposal of methylated spirit is except under prescribed conditions prohibited;

(d) the

No. 2707 Part II.; No. 3113 Part I.

No. 3113 s. 8.

- (d) the conditions under which such sales or dispositions may be made during prohibited hours;
- (e) forms for the purposes of this Part; and
- (f) generally, all such matters and things as are authorized or required to be prescribed or necessary or convenient to be prescribed for carrying into effect the purposes of this Part.

PART III.—CERTAIN NARCOTIC AND OTHER SUBSTANCES AND PREPARATIONS.

22. (1) This Part shall be read and construed as one with Part II. of the *Poisons Act 1920*.

Construction.
No. 3113
ss. 9-12.

(2) This Part shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Date of
operation of
Part III.

23. For sub-section (1) of section nine of the *Poisons Act 1920* there shall be substituted the following sub-section:—

New sub-section
substituted for
No. 3113 s. 9 (1).

“(1) In this Part and in section six of the *Poisons Act 1925* and in Part III. of the *Poisons Act 1927* unless inconsistent with the context or subject-matter—

Interpretation.
No. 3113 Part
II., No. 3401 s. 6,
and this Act.

‘Raw opium’ means the spontaneously coagulated juice obtained from the capsules of the *Papaver somniferum L.*, which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine:

“Raw opium.”

‘Medicinal opium’ means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the pharmacopœia in force in Victoria, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances.

“Medicinal
opium.”
Comp. 15 & 16
Geo. V. c. 74 s. 4.

See No. 2695
s. 105.

‘Morphine’ means the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$.

“Morphine.”

‘Diacetylmorphine’ means diacetylmorphine (diacetylmorphine, heroin) having the formula $C_{21}H_{23}NO_5$.

“Diacetyl-
morphine.”

‘Coca leaves’ means the leaves of any plant of the genus of the Erythroxylaceae, from which cocaine can be extracted either directly or by chemical transformation.

“Coca leaves.”
Comp. 15 & 16
Geo. V. c. 74
s. 1.

‘Crude cocaine’ means any extract of coca leaves which can be used directly or indirectly for the manufacture of cocaine.

“Crude
cocaine.”

‘Cocaine’

"Cocaine."

'Cocaine' means methyl-benzoyl laevo-ecgonine ($[\alpha]_{D 20} = -16.4$ in 20 per centum solution of chloroform), of which the formula is $C_{17}H_{21}NO_4$.

"Ecgonine."

Comp. 15 & 16
Geo. V. c. 74
s. 3.

'Ecgonine' means laevo-ecgonine ($[\alpha]_{D 20} = -45.6$ in 5 per centum solution of water), of which the formula is $C_9H_{15}NO_3H_2O$, and includes any derivatives of ecgonine from which it may be recovered industrially.

"Indian hemp."

'Indian hemp' means the dried flowering or fruiting tops of the pistillate plant known as *Cannabis sativa L.* from which the resin has not been extracted, by whatever name such tops are called."

Power to regulate the production of and dealing in raw opium.

Comp. 10 & 11
Geo. V. c. 46
s. 3.

24. (1) The Governor in Council may on the recommendation of the Board make regulations—

(a) for or with respect to controlling or restricting the production possession sale and distribution of raw opium; and

(b) in particular, but without limiting the generality of the foregoing power, for or with respect to prohibiting the production possession sale or distribution of raw opium except by persons licensed or otherwise authorized in that behalf.

Application of foregoing sub-section to coca leaves, crude cocaine and Indian hemp.

Comp. 15 & 16
Geo. V. c. 74
s. 1.

Permit for possession of coca leaves, Indian hemp &c.

Comp. No. 2707
s. 31.

(2) Sub-section (1) of this section shall apply to coca leaves, crude cocaine, Indian hemp, and resins obtained from Indian hemp and all preparations of which such resins form the base, as it applies to raw opium.

(3) No person shall have in his possession or disposition coca leaves, crude cocaine, Indian hemp or any resin obtained from Indian hemp or any preparation of which any such resin forms the base unless he holds a permit so to do issued by the Board, and the Governor in Council may at any time on the recommendation of the Board cancel any such permit.

(4) The provisions—

(a) of sections thirty-two thirty-three and thirty-six of the Principal Act; and

(b) of sections twenty-three twenty-four and twenty-five of the *Poisons Act 1920*—

shall with such alterations modifications and substitutions as are necessary extend and apply with respect to coca leaves, crude cocaine, Indian hemp and the resins and preparations aforesaid.

(5) The

Application of No. 2707 ss. 32, 33, 36 as amended and No. 3113 ss. 23, 24, 25 to coca leaves, crude cocaine, Indian hemp, &c.

(5) The provisions of sub-sections (3) and (4) of this section shall be read and construed as in aid and not in derogation of the provisions of sub-section (2) hereof.

Construction.

(6) In section thirty-one of the Principal Act for the words "Governor in Council who may" there shall be substituted the words "Pharmacy Board of Victoria, and the Governor in Council may."

Amendment of No. 2707 s. 31. Permit for possession of certain opium.

25. In the Second Schedule to the *Poisons Act 1920*—

- (a) for the expression "Part II. applies" there shall be substituted the expression "Part II. of this Act and Part III. of the *Poisons Act 1927* apply";
- (b) after the word "cocaine" (where first occurring) there shall be inserted the words "(including synthetic cocaine)";
- (c) for the words "diamorphine (commonly known as heroine)" there shall be substituted the words "diacetylmorphine (commonly known as diamorphine or heroin)";
- (d) for the words "and medicinal opium" there shall be substituted the words "medicinal opium, and any extract or tincture of Indian hemp";
- (e) after the words "or other substance" there shall be inserted the words "containing any proportion of diacetylmorphine or"; and
- (f) for the words "ecgonine or diamorphine" there shall be substituted the words "or ecgonine."

Amendment of No. 3113 Second Schedule. Substances and preparations to which No. 3113 Part II. and this Part apply. Comp. 15 & 16 Geo. V. c. 74 s. 3.

26. When a law officer is satisfied that pursuant to section five of the Act of the United Kingdom known as the *Dangerous Drugs Act, 1925*, a declaration has been made with respect to any preparation specified in that declaration the Governor in Council on the recommendation of the Board may by Order published in the *Government Gazette* declare that as from a date specified in the Order the provisions of Part II. of the *Poisons Act 1920* and of section six of the *Poisons Act 1925* and of this Part shall cease to apply in Victoria with respect to the same or any similar preparation specified in the Order and the said provisions shall cease to apply accordingly.

Power to exclude certain preparations from provisions of No. 3113 Part II., No. 3401 s. 6, and this Part. See 15 & 16 Geo. V. c. 74 s. 5.

27. For section twelve of the *Poisons Act 1920* there shall be substituted the following section:—

"12. (1) Any person—

- (a) who acts in contravention of or fails to comply with—
 - (i) any regulation made under this Part: or
 - (ii) the

New section substituted for No. 3113 s. 12. Offences. Comp. 13 & 14 Geo. V. c. 5 s. 2.

- (ii) the conditions of any licence issued or authority granted under or in pursuance of this Part; or
- (b) who for the purpose of obtaining, whether or himself or for any other person, the issue grant or renewal of any such licence or authority makes any declaration or statement which is false in any particular or knowingly utters produces or makes use of any such declaration or statement or any document containing the same; or
- (c) who in Victoria aids abets counsels or procures the commission in any place outside Victoria of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to or in furtherance of any act which if committed in Victoria would constitute an offence under this Part—

shall be guilty of an offence under this Part.

**Punishments
and forfeitures
for offences.
Comp. 13 & 14
Geo. V. c. 5 s. 2.**

(2) Every person guilty of an offence under this Part shall in respect of each offence be liable—

- (a) on conviction on presentment, to a penalty of not more than Five hundred pounds, or to imprisonment for a period of not more than three years, or to both such penalty and imprisonment; or
- (b) on summary conviction, to a penalty of not more than Two hundred and fifty pounds, or to imprisonment for a term of not more than twelve months, or to both such penalty and imprisonment—

and shall in every case on conviction for the offence forfeit to His Majesty all articles in respect of which the offence was committed, and the court before which the offender was convicted may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

**Consent to
prosecution.**

(3) No person shall be proceeded against by presentment for an offence under this Part unless the proceedings are instituted by or with the consent of a law officer.

(4) No

(4) No person shall on conviction for any offence of contravening or failing to comply with any regulation under this Part relating to—

Provision in cases of inadvertent commission of certain offences.
Comp. 13 & 14
Geo. V. c. 5 s. 2.

(a) the keeping of books; or

(b) the issuing or dispensing of prescriptions containing substances or preparations to which this Part applies—

be sentenced to imprisonment or to pay a penalty of more than Fifty pounds if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connexion with the commission or intended commission of any other offence under this Part.

(5) Any person who—

Attempts &c.
Ib.

(a) attempts to commit an offence under this Part; or

(b) solicits or incites another person to commit such an offence—

shall, without prejudice to any other liability, be liable on summary conviction to the same punishment and forfeiture as if he had committed an offence under this Part.

(6) Where a person convicted of an offence under this Part is a company the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

Offences by company.
Ib.

(7) For the purpose of removing doubts it is hereby declared—

As to negating licences, exceptions &c.
Ib.

(a) that in any proceedings against any person for an offence under this Part it is not necessary to negative by evidence any licence permit authority or other matter of exception or defence; and

(b) that the burden of proving any such matter lies on the person seeking to avail himself thereof.

(8) Any proceedings for an offence under this Part (including proceedings for attempting or soliciting or inciting another person to commit such an offence) before a court of summary jurisdiction may, notwithstanding any enactment prescribing the time within which such proceedings

As to time within which summary proceedings may be brought.
Comp. 10 & 11
Geo. V. c. 46
s. 13 (3).

may

may be brought, be brought either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of a law officer to justify a prosecution for the offence comes to his knowledge whichever is the longer; and for the purposes of this sub-section a certificate purporting to be signed by the law officer as to the date on which such evidence as aforesaid comes to his knowledge shall be conclusive evidence thereof."

Amendment of
No. 3401 s. 6.

Unauthorized
possession of
certain
dangerous
drugs.

Comp. 15 & 16
Geo. V. c. 74
s. 3.

28. (1) In section six of the *Poisons Act* 1925—

- (a) after the word "cocaine" there shall be inserted the words "(including synthetic cocaine)";
- (b) for the words "diamorphine (commonly known as heroine)" there shall be substituted the words "diacetylmorphine (commonly known as diamorphine or heroin)"; and
- (c) after the word "opium" there shall be inserted the words "and any extract or tincture of Indian hemp and any preparation admixture extract or other substance containing any proportion of diacetylmorphine or containing not less than one-fifth per centum of morphine or one-tenth per centum of cocaine or ecgonine."

As to
percentage of
morphine.

(2) For the purposes of the said section six as so amended the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

PART IV.—GENERAL.

Interpretation
of "sell" and
"sale" in the
Poisons Acts.

29. In the Poisons Acts unless inconsistent with the context or subject-matter—

"Sell" includes expose or offer for sale or have in possession for sale; and "sale" has a corresponding interpretation.

Interpretation
of "correspond-
ing law."

Comp. 13 & 14
Geo. V. c. 5 s. 6
(2); 15 & 16
Geo. V. c. 74
s. 6.

30. (1) In Part II. of the *Poisons Act* 1920 and in this Act the expression "corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of—

- (a) any British possession (including any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions) outside Victoria; or

(b) of

(b) of any foreign country (including any protectorate thereof or any territory in respect of which a mandate is being exercised by the Government thereof)---

to be a law providing for the control and regulation in that possession or country of the manufacture sale use export or import of drugs in accordance with the provisions of—

(i) the International Opium Convention signed at the Hague on the twenty-third day of January One thousand nine hundred and twelve: or

(ii) the Convention which is referred to as the Geneva Convention in the preamble to the Act of the Parliament of the United Kingdom known as the *Dangerous Drugs Act*, 1925, and as having been signed on behalf of His Majesty on the nineteenth day of February One thousand nine hundred and twenty-five.

(2) Any statement in any such certificate as to the effect of the law mentioned in the certificate or any statement in any such certificate that any facts constitute an offence against that law shall be conclusive.

Effect of statements in certificate as to such law.

31. (1) In paragraph (f) of sub-section (1) of section sixteen of the Principal Act after the words "fly poison papers" there shall be inserted the words "not containing arsenic."

Amendment of No. 2707 s. 16. Poison fly-paper.

(2) In the First Schedule to the *Poisons Act* 1920—

(a) after the words "fly poison papers" there shall be inserted the words "not containing arsenic"; and

(b) for the expression "*Vermin Destruction Act* 1915" there shall be substituted the expression "*Vermin and Noxious Weeds Act* 1922."

Amendment of No. 3113 First Schedule.

No. 3195 s. 3.

32. For the purposes of any Schedule to the Principal Act or any Act amending the same and of section six of the *Poisons Act* 1925 percentages in the case of liquid preparations shall (unless other provision in that behalf is made by regulations under the Poisons Acts) be calculated

Calculation of percentages in case of liquid preparations. See No. 2707 Second Schedule; No. 3113 Second Schedule; No. 3401 s. 6.

Comp. 13 & 14 Geo. V. c. 5 s. 5.

on

on the basis that the preparation containing one per centum of any substance means a preparation in which—

- (a) one gramme of the substance, if a solid, or
- (b) one millilitre of the substance, if a liquid—

is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

Amendment of
No. 2707
Second
Schedule.

33. (1) At the end of the Second Schedule to the Principal Act there shall be inserted a new part of the said Schedule as follows :—

“3rd Part.

Any substance inserted by proclamation in this part of this Schedule.”

3rd part of
said Schedule
inserted.

Power to insert
certain articles
in No. 2707
Second
Schedule
3rd Part.

(2) In any case where the Governor in Council considers that any substance (whether or not the same is at the commencement of this Act included in either of the other parts of the Second Schedule to the Principal Act)—

- (a) is not of such a nature as to make it necessary for the safety of the public that all the provisions of the Poisons Acts applicable to poisons should apply to such substance; but
- (b) is of such a nature that its sale and use should be subject to certain conditions and restrictions under the said Acts—

the Governor in Council on the recommendation of the Board may by proclamation insert the name of such substance in the third part of the Second Schedule to the Principal Act; and the provisions of section four of the Principal Act shall extend and apply and be read and construed accordingly.

Application of
No. 2707 s. 4.

Amendment of
No. 2707 s. 6.

Dealers to
label cupboards
where certain
poisons kept.

New section
substituted for
No. 2707 s. 7.

How vessels or
wrappers
containing
poisons to be
marked.

34. The Principal Act is hereby amended as follows :—

(1) In sub-section (3) of section six after the words “all poisons” there shall be inserted the words “specified in the first part of the Second Schedule to this Act and such other poisons as are prescribed by regulations under this Part of this Act.”

(2) For section seven there shall be substituted the following section :—

“7. No person shall sell any poison either by wholesale or retail—

- (a) unless the bottle or other vessel wrapper or cover box or case immediately containing the same bears thereon—

- (i) in the case of any poison specified in the first part or the second part of the

Second

Second Schedule to this Act—the word ‘Poison,’ : or

- (ii) in the case of any poison the name of which is inserted in the third part of the said Schedule—the word ‘Caution’ and such other words (if any) as are prescribed by regulations under this Part of this Act—

printed conspicuously together with the name of the article and the name and address of the seller thereof ; and

- (b) unless such other requirements as are prescribed by the Poisons Acts and the regulations thereunder are complied with.”

(3) For section eleven there shall be substituted the following section :—

New section substituted for No. 2707 s. 11.

“11. Every person being the owner or other person in charge or possession of any poison who leaves it in any place (whether the same is ordinarily accessible to others or not) unless the bottle or package of whatever kind in which such poison is contained—

Owners of poisons not to leave them unlabelled &c.

(a) is marked—

- (i) in the case of any poison specified in the first part or the second part of the Second Schedule to this Act—‘Poison’ ; or
- (ii) in the case of any poison inserted in the third part of the said Schedule—‘Caution,’ together with such other words (if any) as are prescribed by regulations under this Part of this Act ; and

(b) in each case is otherwise duly labelled in the manner provided by section seven of this Act as re-enacted in and amended by the *Poisons Act 1927*—

No. 2707 s. 7.

Amendment of No. 2707 s. 10.

shall be liable to a penalty of not more than Twenty pounds.”

Bottles cases &c. of certain exempted materials or articles containing poison to be labelled.

(4) At the end of sub-section (2) of section sixteen there shall be inserted the expression “of this Act as re-enacted in and amended by the *Poisons Act 1927*.”

(5) In

Amendment of
No. 2707
Second
Schedule.

(5) In the Second Schedule —

- (a) in the first part thereof, after the expression “2nd Part” there shall be inserted the expression “or not inserted in the 3rd Part”; and
- (b) in the second part thereof, after the expression “1st Part” (wherever occurring) there shall be inserted the expression “or not inserted in the 3rd Part.”

Application of
No. 2707 ss. 12,
14 to making
regulations
requiring
antidote to a
poison being
printed on
container of
such poison.

35. The provisions of sections twelve and fourteen of the Principal Act shall extend and apply—

- (a) to the making of regulations requiring the package in which any prescribed poison is cased covered enclosed contained or packed for sale (whether by wholesale or retail) to have printed thereon the name of some effective remedy (if any) to counteract the effects of such poison; and
- (b) to such regulations when made.

Modification of
No. 2707 s. 8.
With respect
to sales to
medical
practitioners
dentists and
veterinary
surgeons.
Comp. 13 & 14
Geo. V. c. 5
s. 3.

36. (1) So much of the provisions of section eight of the Principal Act as require an entry in the book to be kept under that section to be signed by the purchaser shall not (if the conditions mentioned in this section are fulfilled) apply where—

- (a) the purchaser is a medical practitioner; and
- (b) the purchase is made by him for the purposes of his profession.

(2) The conditions to be fulfilled for the purposes of this section are that the vendor—

- (a) has received before the sale an order in writing signed by the purchaser stating his name and address and the name and quantity of the article to be purchased;
- (b) must be reasonably satisfied that the signature affixed to the order is in fact the signature of the person purporting to sign it, and that that person is a medical practitioner;
- (c) must if the article sold is being sent by post to the purchaser register the same at the post office at which it is posted or cause it to be so registered;
- (d) enter in the book in the column assigned to the signatures of purchasers the words “signed

Conditions to
be fulfilled by
vendors and
purchasers.

order”

order" followed by the date on which the order is executed ; and

- (e) preserve the order for a period of two years from the date on which the final entry in the book is made :

Provided that if a vendor is reasonably satisfied that a medical practitioner desiring to purchase a poison urgently requires it for the purpose of his profession but is, by reason of some emergency unable before delivery either to furnish to the vendor an order in writing duly signed, or to attend and sign the book the vendor may send the poison to the purchaser to be handed over to him either in exchange for such an order or on an undertaking by the purchaser to furnish such an order to the vendor within the twenty-four hours next following.

(3) If any purchaser by whom such an undertaking has been given fails neglects or refuses to deliver to the vendor a signed order in accordance with the undertaking or if any person for the purpose of obtaining delivery of any poison under the proviso to the next preceding sub-section makes a statement which is to his knowledge false he shall be liable to a penalty of not more than Twenty pounds.

Penalty.

(4) This section shall apply to—

- (a) dentists registered or deemed to be registered under Part II. of the *Medical Act 1915* ;
 (b) persons referred to in section seventy-four of the said Act whose names have been recorded by The Dental Board of Victoria ; and
 (c) registered veterinary surgeons—

Application to registered dentists and veterinary surgeons.
 No. 2695
 ss. 37, 44, 74.

See No. 2746
 s. 13.

as it applies to medical practitioners.

37. (1) No person shall sell any drug or medicine which is for internal use in a bottle or other container—

- (a) of like description to that prescribed by regulations under the Poisons Acts for a bottle or other container in which any poison for external use specified in the Fourth Schedule to the Principal Act may be sold ; or
 (b) of such a description as not to be readily distinguishable by sight and touch or by either sight or touch from a bottle or container in which such a poison may be sold.

Medicines for internal use no to be sold in bottles &c. like those in which poisons for external use may be sold.

No. 2707
 Fourth Schedule.

(2) Nothing

saving.

(2) Nothing in this section shall affect the requirements of the Poisons Acts or any regulations thereunder with respect to the bottles or other containers in which drugs or medicines which are or contain poisons within the meaning of the said Acts may be sold.

Owners of certain poisonous substances &c. not to leave them unlabelled.

See No. 2707 ss. 20-22

Fourth Schedule; No. 3113 First Schedule.

Comp. No. 2707 s. 11.

38. Every person being the owner or other person in charge or possession of any substance or preparation specified in the Fourth Schedule to the Principal Act or the First Schedule to the *Poisons Act 1920* who leaves it in any place (whether the same is ordinarily accessible to others or not) unless the bottle or other vessel wrapper or cover box or case of whatever kind in which such substance or preparation is contained—

(a) is marked "Poisonous, not to be taken"; and

(b) is otherwise duly labelled in the manner provided by section twenty of the Principal Act—

shall be liable to a penalty of not more than Twenty pounds:

Provided that—

(a) the foregoing provisions of this section shall not apply to any materials or articles mentioned in sub-section (1) of section sixteen of the Principal Act or in the First Schedule to the *Poisons Act 1920* in any case where regulations are in force with respect to the keeping and safe custody and labelling of such materials or articles; and

(b) in the case of any substance or preparation referred to in this section when mixed or compounded with anything which is a poison within the meaning of Part I. of the Principal Act the provisions of section seven of the Principal Act as re-enacted in and amended by this Act shall apply.

No. 2707 s. 16;
No. 3113 First Schedule.

No. 2707 s. 7.

Amendment of No. 2707 s. 23 as amended by No. 3113 s. 21.

Annual lists of licensees under No. 3113 Part II. and Part I. of this Act to be published.

39. (1) At the end of sub-section (1) of section twenty-three of the Principal Act as amended by section twenty-one of the *Poisons Act 1920* for the expression "of the *Poisons Act 1920*" there shall be substituted the expression "or Part II. of the *Poisons Act 1920* and all persons holding licences under Part I. of the *Poisons Act 1927*."

(2) In

(2) In section twenty-four of the Principal Act as amended by section twenty-one of the *Poisons Act 1920*—

Amendment of
No. 2707 s. 24
as amended by
No. 3113 s. 21.

(a) for the expression “Part I. or Part II. of this Act or under the *Poisons Act 1920*” there shall be substituted the words “the Poisons Acts”;

Evidence &c.
in legal
proceedings.

(b) in paragraph (a) for the expression “licences under Part I. of the *Poisons Act 1920*” there shall be substituted the expression “licences under Part I. or Part II. of the *Poisons Act 1920* and persons holding licences under Part I. of the *Poisons Act 1927*”; and at the end of the paragraph for the expression “licence under Part I. of the *Poisons Act 1920*” there shall be substituted the expression “licence under Part I. or Part II. of the *Poisons Act 1920* or under Part I. of the *Poisons Act 1927* (as the case may be)”; and

Effect of
absence of
defendant's
name from
certain gazetted
lists of
licensees.

(c) for paragraph (b) there shall be substituted the following paragraph:—

Certificate of
Medical Board
or Pharmacy
Board to be
evidence.

“ (b) a certificate that any person is or is not a medical practitioner shall if purporting to be signed by the secretary of the Medical Board of Victoria be *primâ facie* evidence of the fact therein stated; and a certificate that any person is or is not—

(i) a pharmaceutical chemist: or

(ii) a person who has received a certificate from the Pharmacy Board of Victoria as a dealer in poisons: or

(iii) a person who holds a licence permit or authority under Part I. or Part II. of the *Poisons Act 1920* or under Part I. of the *Poisons Act 1927*—

shall if purporting to be signed by the registrar of the Pharmacy Board of Victoria be *primâ facie* evidence of the fact therein stated.”

(3) In sub-section (1) of section twenty-five of the Principal Act as amended by any Act for the expression “Part I.

Amendment of
No. 2707 s. 25;
No. 3113 s. 21;
No. 3401 s. 3.

OR

Proof of
certificate of
analyst.

or Part II. or Part IV. of this Act or under the *Poisons Act 1920*” there shall be substituted the words “the Poisons Acts.”

Amendment of
No. 2707 s. 26;
No. 3113 s. 21;
No. 3401 s. 3.
Sales by
employé &c.

(4) In section twenty-six of the Principal Act as amended by any Act for the expression “Part I. or Part II. or Part IV. of this Act and for the purposes of the *Poisons Act 1920*” there shall be substituted the words “the Poisons Acts.”

Search warrant
for dangerous
or poisonous
&c. drugs &c.
and for
documents &c.
Comp. 13 & 14
Geo. V. c. 5 s. 1.
No. 2707 Fourth
Schedule.
No. 3113 First
and Second
Schedules.
No. 3401 s. 6.

40. (1) If a justice is satisfied by information on oath that there is reasonable ground for suspecting—

(a) that any substance or preparation specified in the Fourth Schedule to the Principal Act or in the First Schedule or the Second Schedule to the *Poisons Act 1920* or in section six of the *Poisons Act 1925*, or that any medicine which contains any such substance or preparation, or that any potent drug is, in contravention of the provisions of the Poisons Acts or any regulations thereunder, in the possession or under the control of any person in any premises; or

(b) that any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be—

(i) an offence against any provision of the Poisons Acts or of any regulation thereunder; or

(ii) in the case of a transaction or dealing carried out or intended to be carried out in any place outside Victoria—an offence against the provisions of any corresponding law in force in that place—

is in the possession or under the control of any person in any premises—

such justice may grant a warrant authorizing any member of the police force named in the warrant at any time or times within one month from the date of the warrant—

(iii) to enter, if need be by force, the premises named in the warrant; and

(iv) to

- (iv) to search the premises and any persons found therein; and
- (v) if there is reasonable ground for suspecting that an offence against any provision of the Poisons Acts or of any regulation thereunder has been committed in relation to any such substances or preparations or medicines or potent drugs which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid—to seize and detain those substances or preparations or those medicines or those potent drugs or that document (as the case may be).

(2) Section nineteen of the *Poisons Act* 1920 is hereby amended as follows :—

Amendment of
No. 3113 s. 19.

(a) After the words “ of the Principal Act ” there shall be inserted the expression “ or section six of the *Poisons Act* 1925 or Part III. of the *Poisons Act* 1927 ”;

Powers of
Inspection.
No. 3401 s. 6.

(b) After the words “ Second Schedule to this Act ” there shall be inserted the expression “ or specified in section six of the *Poisons Act* 1925 ”;

ib.

(c) After the words “ any books ” there shall be inserted the words “ or documents ”; and

Comp. 13 & 14
Geo. V. c. 5
s. 1.

(d) For the words “ or stocks ” there shall be substituted the words “ stocks substances preparations medicines or potent drugs or documents. ”

41. (1) For sub-section (3) of section three of the *Poisons Act* 1925 there shall be substituted and as on from and after the coming into operation of the said Act shall be deemed to have been substituted the following sub-section :—

Amendment of
No. 3401 s. 3, (3)

“(3) (a) In paragraph (b) of sub-section (1) of section thirty-five of the Principal Act before the words ‘ and to arrest ’ there shall be inserted the words ‘ and any pipes or things used or capable of being used for smoking opium and found in or on such house or premises ’; and

Special warrant
to seize opium
pipes &c.
No. 2707 s. 35.

(b) In

No. 2707 Fifth
Schedule.

(b) In the Fifth Schedule to the Principal Act after the words 'found therein or thereon' there shall be inserted the words 'and any pipes or things used or capable of being used for smoking opium and found therein or thereon.'"

Construction.

(2) The said section thirty-five and the said Schedule shall be read and construed as if the first-mentioned subsection (3) had not been enacted.

Amendment
of No. 3401
s. 7.

Evidence in
prosecutions
under Poisons
Acts.

42. In section seven of the *Poisons Act 1925*—

(a) for the words "any provision of this Act" there shall be substituted the words "any provision of the Poisons Acts or any regulations thereunder";

(b) after the words "to the last-mentioned Act" there shall be inserted the words "or specified in the last preceding section of this Act"; and

(c) for the words "of the last-mentioned Act" there shall be substituted the expression "of the *Poisons Act 1920*."

Effect of forms
in regulations.

43. Forms set out in any regulations made under the Poisons Acts or forms to the like effect may be used for the purposes thereof and shall be sufficient in law.

Publication of
regulations.

44. All regulations made under this Act shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

Revocation of
regulations
under the
Poisons Acts.

45. Without prejudice to any other method of revocation and notwithstanding anything to the contrary in this or any other Act any regulation made under the Poisons Acts may be revoked by the Governor in Council by Order published in the *Government Gazette*.