

Zambia

## Pharmacy and Poisons Act, 1940

### Chapter 299

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# Pharmacy and Poisons Act, 1940

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# Pharmacy and Poisons Act, 1940

## Chapter 299

Commenced on 1 July 1941

*[This is the version of this document at 31 December 1996.]*

*[38 of 1940; 3 of 1941; 29 of 1941; 51 of 1963; 49 of 1965; 58 of 1965; 22 of 1972; 13 of 1994; Government Notices 291 of 1964; 497 of 1964; 500 of 1964; Statutory Instrument 163 of 1965]*

**An Act to make better provision for the control of the profession of pharmacy and the trade in drugs and poisons.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Pharmacy and Poisons Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

**"arrangement with creditors"** means a composition or scheme made in pursuance of the law for the time being in force relating to bankruptcy and includes a deed of arrangement to which the Deeds of Arrangement Act applies;

*[Cap. 84]*

**"authorised seller of poisons"** means—

- (a) a registered pharmacist; or
- (b) a person declared by section seven or eight to be an authorised seller of poisons;

**"Board"** means the Pharmacy and Poisons Board constituted under the provisions of section three;

**"dispensing"** means supplying a medicine or a poison on and in accordance with a prescription duly given by a duly qualified medical practitioner or dentist or a veterinary surgeon;

**"drug"** includes any medicine or medicinal preparation or therapeutic substance;

**"licensed seller of poisons"** means a person licensed in accordance with the provisions of section eighteen to sell poisons in Part 2 of the Poisons List;

**"non-poisonous drug"** means a drug which is not included in the Poisons List;

**"poison"** means a poison included in the Poisons List;

**"wholesale dealing"** means sale to a person who buys for the purpose of selling again.

*[As amended by No. 58 of 1965]*

#### 3. Appointment of Pharmacy and Poisons Board

- (1) The Minister may appoint a board to be called the Pharmacy and Poisons Board, consisting of not more than six persons, of whom the Director of Medical Services shall be chairman and a registered

medical practitioner, two registered pharmacists and such other persons as the Minister shall deem fit to appoint, shall be members.

- (2) The Board shall appoint a registrar from among its members, and the powers and duties of the Board may, subject to the directions of the Board, be exercised by the registrar. Three members of the Board shall form a quorum.

*[As amended by No. 3 of 1941, No. 51 of 1963 and Nos. 49 and 58 of 1965]*

## **Part II – Pharmacy**

### **Registration of pharmacists**

#### **4. No one to carry on the business of pharmacist unless registered**

- (1) No person other than a registered pharmacist shall, except as may be specifically provided by any of the provisions of sections seven to ten—
  - (a) carry on, either on his own behalf or on behalf of another, the business of a pharmacist;
  - (b) in the course of any trade or business prepare, mix compound or dispense any drug or supply any poison except under the immediate supervision of a registered pharmacist;
  - (c) assume, take, exhibit or in any way make use of any title, emblem, description or addition reasonably calculated to suggest that he is registered as a pharmacist.
- (2) For the purpose of paragraph (c) of subsection (1), the use of the word "pharmacist" or "chemist" or "druggist" or any similar word or combination of words shall be deemed to be reasonably calculated to suggest that the owner of the business and the person having control of the business on those premises are registered pharmacists.
- (3) Nothing in this section shall be deemed to make it unlawful for any person to sell any non-poisonous drug provided such drug is sold in its original condition as received by the seller or to require such person to be registered as a pharmacist.

*[As amended by No. 58 of 1965]*

#### **5. Name and certificate of registration to be exhibited in the premises**

It shall not be lawful for any person to carry on the business of a pharmacist unless the name and certificate of registration of the person having control of the premises in which such business is carried on are conspicuously exhibited therein.

### **Registration of premises**

#### **6. All premises in which persons carry on business of pharmacist to be registered**

- (1) Every person lawfully carrying on the business of a pharmacist shall cause each set of premises where such business is being carried on to be registered.
- (2) Application for registration of premises under this section shall be made to the Board in the prescribed form.
- (3) The registration of any premises under this section shall become void upon the expiration of thirty days from the date of any change in the ownership of the business carried on therein.
- (4) The Board may, for good and sufficient reason to be stated in writing, refuse to register or may remove from the register any premises which in its opinion are or have become unsuitable for the purpose of carrying on the business of a pharmacist.

- (5) The Board shall keep a register in the form prescribed of all premises registered under the provisions of this section.

*[As amended by No. 58 of 1965]*

## Exemptions

### 7. Company may carry on business of pharmacist under certain conditions

- (1) Notwithstanding anything contained in the foregoing provisions of this Part—
- (a) it shall not be necessary for a company carrying on the business of a pharmacist to be registered provided that—
    - (i) the business is under the personal management and control of a registered pharmacist;
    - (ii) a copy of the certificate of incorporation of the company is lodged with the Board; and
    - (iii) the other provisions of this Act are complied with;
  - (b) a company carrying on the business of a pharmacist in accordance with the provisions of this section shall be an authorised seller of poisons within the meaning of this Act and may use the description of chemist and druggist or of dispensing chemists or dispensing druggists and may use the description "pharmacy" in connection with the premises.
- (2) Any act which if done by an individual would be an offence against this Act shall, if done by a company, be an offence by every director, secretary and manager thereof, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

*[As amended by No. 58 of 1965]*

### 8. Representatives of deceased or bankrupt pharmacists

Notwithstanding anything contained in the foregoing provisions of this Part—

- (a) if a registered pharmacist dies, or becomes of unsound mind or is adjudged bankrupt or enters into an arrangement with his creditors, his representatives may, with the permission of the Board and subject to such directions and conditions as the Board may in its discretion deem fit to impose, carry on the business, and it shall not be necessary for such representatives to be registered, provided that such business is continued only under the personal management and control of a registered pharmacist, and for such period not exceeding five years as the Board may decide;
- (b) the representatives of a registered pharmacist carrying on a business in accordance with the provisions of paragraph (a) shall be authorised sellers of poisons within the meaning of this Act and it shall be lawful for them to use any title, emblem or description which might have been lawfully used by the pharmacist whose representatives they are.

### 9. Qualified medical practitioners and other persons exempted from the provisions of Part II

The provisions of this Part shall not apply to drugs supplied by—

- (a) a duly qualified medical practitioner or dentist or a veterinary surgeon in the ordinary course of his practice;
- (b) any employee of the Government in the course of his duties as such employee; or

- (c) any hospital, dispensary or similar institution exempted by the Minister by statutory order, whether general or special.

*[As amended by No. 51 of 1963]*

#### **10. Exemption in the case of wholesale dealers and licensed sellers of Part 2 poisons**

Nothing in this Part shall apply to—

- (a) any such transaction as is mentioned in paragraph (a) or (b) of subsection (1) of section sixteen;
- (b) the sale of poisons in Part 2 of the Poisons List by a licensed seller of poisons in accordance with the provisions of section eighteen.

### **Part III – Poisons**

#### **The Poisons List**

#### **11. The Poisons List to be prepared by the Board and approved by the Minister**

- (1) The Board shall, as soon as may be after the commencement of this Act, prepare and submit to the Minister for his approval a list of the substances which are to be treated as poisons for the purposes of this Act.
- (2) The list to be prepared under this section shall be divided into two parts as follows:

Part 1 of the list shall consist of those poisons which, subject to the provisions of this Act, are not to be sold except by an authorised seller of poisons.

Part 2 of the list shall consist of those poisons which, subject to the provisions of this Act, are not to be sold except by an authorised seller of poisons or by a person who is licensed under the provisions of section eighteen to sell poisons in Part 2 of the Poisons List.
- (3) In determining the distribution of poisons as between Part 1 and Part 2 of the list, regard shall be had to the desirability of restricting Part 2 to articles which are in common use, or likely to come into common use, for purposes other than the treatment of human ailments, and which it is reasonably necessary to include therein if the public are to have adequate facilities for obtaining them.
- (4) The Minister may, by statutory order, confirm the list, with or without modification, and may, upon the recommendation of the Board, from time to time amend or vary the list as he thinks proper.
- (5) The said list as in force for the time being is in this Act referred to as the Poisons List, and the expression "poison" means a poison included in the Poisons List.

*[As amended by No. 51 of 1963 and G.N. No. 291 of 1964]*

### **Supply of poisons**

#### **12. Sale of poisons in Part 1 of the Poisons List**

- (1) Subject to the provisions of this Part, no person shall sell any poison in Part 1 of the Poisons List unless—
  - (a) he is a registered pharmacist;
  - (b) the sale is effected on registered premises; and



- (c) the person to whom such poison is sold is—
  - (i) certified in writing in the manner prescribed and by a person authorised by subsection (3) to give a certificate for the purpose; or
  - (ii) known to the seller to be a person to whom the poison may properly be sold.
- (2) The seller of such poison shall not deliver it until—
  - (a) he has made or caused to be made an entry in a book kept for the purpose to be called the Poisons Book stating in the form prescribed the date of the sale, the name and address of the purchaser and of the person, if any, by whom the certificate required under subsection (1) (c) (i) was given, the name and quantity of the article sold, and the purposes for which it is stated by the purchaser to be required;
  - (b) the purchaser has affixed his signature to the aforesaid entry.
- (3) The Board may authorise fit and proper persons to give certificates for the purposes of subsection (1) (c) (i), and shall, from time to time, publish by *Gazette* notice a list of persons so authorised.

*[As amended by No. 51 of 1963 and No. 58 of 1965]*

### 13. Sale of poisons in Part 2 of the Poisons List

Subject to the provisions of this Part, no person shall sell any poison in Part 2 of the Poisons List unless—

- (a) he is an authorised seller of poisons; or
- (b) he is licensed to sell poisons in Part 2 of the Poisons List under the provisions of section eighteen and the sale is effected on premises in respect of which he is so licensed.

### 14. Labelling of poisons

It shall not be lawful for a person to supply any poison unless the container of the poison is labelled in the prescribed manner—

- (a) with the name of the poison;
- (b) in the case of a preparation which contains a poison as one of the ingredients thereof, with the prescribed particulars as to the proportion which the poison contained in the preparation bears to the total ingredients;
- (c) with the word "poison" or other prescribed indication of the character of the article; and
- (d) if supplied on sale, with the name of the premises on which it is sold.

### 15. Medicines supplied by registered medical practitioners and others

- (1) Nothing in sections twelve to fourteen shall apply—
  - (a) to a medicine which is supplied by a duly qualified medical practitioner for the purposes of medical treatment, by a registered dentist for the purpose of dental treatment or by a veterinary surgeon for the purpose of animal treatment; or
  - (b) to a medicine supplied or dispensed at any institution exempted from the provisions of Part II under the provisions of paragraph (c) of section nine; or
  - (c) to a medicine which is dispensed by an authorised seller of poisons on registered premises;if the provisions of subsections (2) and (3) are satisfied in relation thereto.
- (2) The medicine must be distinctly labelled with the name and local address of the person by whom it is supplied or dispensed.

- (3) The following particulars shall, within twelve hours after the medicine has been supplied or dispensed, be entered in a book kept for the purpose, to be called the "Prescription Book":
  - (a) the date upon which the medicine was supplied or dispensed;
  - (b) the ingredients of the medicine and the quantity supplied;
  - (c) if the medicine was dispensed by an authorised seller of poisons, the name and address of the person by whom the prescription was given;
  - (d) the name and address of the person to whom the medicine was supplied.

## 16. Special provisions in the case of certain transactions

- (1) Except as is hereinafter specifically provided, nothing in the foregoing provisions of this Act shall extend to or interfere with—
  - (a) the sale of poisons by way of wholesale dealing;
  - (b) the sale of an article by a person carrying on a regular business in mining, agricultural or horticultural accessories to a person who requires the article for the purpose of his trade or business; or
  - (c) the sale of a poison by an authorised seller of poisons or the sale of poisons in Part 2 of the Poisons List by a licensed seller of poisons to—
    - (i) a duly qualified medical practitioner or dentist or a veterinary surgeon for the purpose of his profession;
    - (ii) any employee of the Government in the course of his duties as such employee;
    - (iii) any Government institution; or
    - (iv) any hospital, dispensary or similar institution or any person or institution concerned with scientific education or research if the aforesaid hospital, dispensary, institution or person is approved by the Minister by statutory order, whether general or special;

if the requirements contained in the following provisions of this section are complied with.

- (2) In the case of sales under paragraphs (a) and (b) of subsection (1), the seller must be in possession of a licence issued by the Board in the prescribed form.
- (3) The seller must obtain, before the completion of the sale, an order in writing signed by the purchaser stating his name and address, trade, business or profession, the name and quantity of the article to be purchased and the purpose for which it is required.
- (4) The seller must be reasonably satisfied that the signature is that of the person purporting to have signed the order, and that that person carries on the trade, business or profession stated in the order, being one in which the poison to be purchased is used.
- (5) If the article sold is sent by post, it must be sent by registered post.
- (6) In the case of poisons in Part 1 of the Poisons List, the provisions of subsection (2) (a) of section twelve must be complied with.
- (7) The provisions of section fourteen relating to the labelling of poisons must be complied with:

Provided that where a person represents that he urgently requires a poison for the purpose of his trade, business or profession and satisfies the seller that by reason of some emergency he is unable before delivery to furnish an order in writing as required by subsection (3), the seller may forthwith deliver the poison to the purchaser, and in such a case the purchaser shall, within twenty-four hours of such sale, furnish the required written order to the seller.

*[As amended by No. 51 of 1963]*

**17. Automatic machines**

No person shall expose or cause to be exposed for sale any poison in or by means of an automatic machine.

**Licensed sellers of poisons****18. Certain persons may be licensed to sell poisons in Part 2 of the Poisons List**

- (1) For the purposes of this Act, there may be licensed certain persons who, not being registered pharmacists, shall be entitled to sell poisons in Part 2 of the Poisons List.
- (2) Every Provincial Medical Officer shall be the licensing authority within his Province for the purposes of this Part.
- (3) Application for a licence to sell poisons in Part 2 of the Poisons List shall be made to the licensing authority in the manner prescribed.

*[As amended by G.N. No. 500 of 1964]*

**19. Issue of licences**

- (1) If the licensing authority is satisfied that the applicant is a fit and proper person to sell poisons in Part 2 of the Poisons List and that the premises in which he proposes to carry on such business are suitable, he may, in his discretion and upon payment of the prescribed fee, issue to the applicant a licence in the prescribed form.
- (2) A licence granted under this section shall authorise the licensee to sell poisons in Part 2 of the Poisons List in accordance with the provisions of this Act upon the premises specified in the licence and shall expire on the 31st December of the year in which it is granted.
- (3) A licence granted under this section may be renewed upon application.

**20. Register of licences to be kept**

Every licensing authority shall keep a register in the prescribed form of licences issued by him under this Part, and shall publish, by *Gazette* notice, particulars of all such licences.

*[As amended by No. 51 of 1963]*

**21. Licensing authority may refuse to grant and may revoke a licence**

The licensing authority may refuse to issue a licence or may revoke the licence of any person who in the opinion of the authority is, for sufficient reason relating either to himself personally or to his premises, not fit to be licensed. In the event of such refusal or revocation, an appeal shall lie to the Board whose decision shall be final.

**Part IV – Miscellaneous provisions****22. Powers of search and inspection of books**

- (1) Any Government medical officer, any Administrative Officer and any police officer not under the rank of Sub Inspector and any other person duly authorised in writing in that behalf by the Board, in this Part referred to as an authorised officer, may, for the purpose of securing compliance with this Act, at all reasonable times enter any premises which are on the register of premises or in which a licensed seller of poisons carries on business or in which he has good cause to suspect that a breach of the law in relation to the sale of drugs or poisons has been committed and may make such examination and inquiry and do such other things, including the taking of samples on

payment, as may be necessary for ascertaining whether the provisions aforesaid are being complied with.

- (2) Any person who wilfully delays or obstructs a duly authorised officer in the lawful exercise of his powers under this section, or refuses to allow any sample to be taken or to give information which he is duly required to give under this section, is guilty of an offence and is liable to a fine of one hundred and fifty penalty units.
- (3) Every authorised or licensed seller of poisons shall, on the demand of a duly authorised officer, produce for inspection his certificate of registration or licence, as the case may be.
- (4) All books kept by an authorised seller of poisons or a licensed seller of poisons in accordance with the provisions of this Act shall be open to inspection by a duly authorised officer at all reasonable times.

*[As amended by No. 51 of 1963 and Act [No. 13 of 1994](#)]*

### **23. Production of authorisation**

An inspecting officer specially authorised in writing and exercising his powers under section twenty-two shall produce his authorisation on demand.

### **24. Examination of premises, drugs, etc.**

Any authorised officer may enter the premises where any registered pharmacist carries on business or keeps any drugs or wares used by him and examine such premises, drugs and wares.

*[As amended by No. 22 of 1972]*

### **25. Patent medicines**

The Minister, on the recommendation of the Board, may, by statutory order, prohibit or control the importation, manufacture or sale of any secret, patent, proprietary or homoeopathic medicine or preparation.

*[As amended by No. 51 of 1963 and No. 58 of 1965]*

### **26. Rules**

- (1) The Minister may, by statutory instrument, make rules with respect to any of the following matters or for any of the following purposes:
  - (a) regulating the sale of poisons in Part 2 of the Poisons List by licensed sellers of poisons or by any class of such persons, or by persons licensed to sell poisons under the provisions of subsection (2) of section sixteen;
  - (b) prohibiting the sale by retail of any specified poison in Part 1 of the Poisons List except on a prescription duly given by a duly qualified medical practitioner or dentist or a veterinary surgeon, and for prescribing the form and regulating the use of such prescriptions;
  - (c) exempting from any of the provisions of this Act relating to the sale of poisons, any article or substance containing poison or any class of such articles or substances;
  - (d) prohibiting, regulating or restricting the manufacture of drugs, pharmaceutical preparations and therapeutic substances;
  - (e) the safe custody and storage of poisons;
  - (f) the importation, exportation, transport and labelling of poisons;
  - (g) the containers in which poison may be supplied;

- (h) the addition to poisons of specified ingredients for the purpose of rendering them readily distinguishable as poisons;
  - (i) the compounding and dispensing of poisons;
  - (j) for prescribing the period for which any books or registers required to be kept for the purposes of this Act are to be preserved
  - (k) for prescribing the fees to be paid for anything to be done under this Act;
  - (l) for the procedure to be observed by the Board;
  - (m) for prescribing anything which is by this Act to be prescribed by rules.
- (2) The power to make rules under this section with respect to poisons or drugs includes the powers to make rules with respect to any class of poison or drug or any particular poison or drug.

*[As amended by No 51 of 1963, G.N. No. 291 of 1965 and No. 58 of 1965]*

## 27. **Penalty**

Any person who contravenes any provision of this Act is guilty of an offence and, except as provided by subsection (2) of section twenty-two, is liable on conviction to imprisonment for six months or to a fine of one thousand five hundred penalty units or to both and, in addition to such penalty as aforesaid, the court before which a person is so convicted may order any articles in respect of which such offence has been committed to be forfeited.

*[As amended by Act [No. 13 of 1994](#)]*