

No. 55

Bill No. 16 of 1960.

PHARMACY AND POISONS (AMENDMENT) BILL, 1960.

ARRANGEMENT OF SECTIONS.

Section

1. Short title and commencement.
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A BILL

Intituled

AN ORDINANCE TO AMEND THE PHARMACY AND POISONS ORDINANCE, 1956.

Enacted by the Legislature of British Guiana:—

1.(1) This Ordinance may be cited as the Pharmacy and Poisons (Amendment) Ordinance, 1960, and shall be construed and read with the Pharmacy and Poisons Ordinance 1956, hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same.

Short title and commencement.
No. 36 of 1956.

(2) This Ordinance shall come into operation on such day as the Governor may, by order published in the Gazette, appoint.

2. Section 2 of the Principal Ordinance is hereby amended —

Amendment of section 2 of the Principal Ordinance.

- (a) by the substitution for the words “means any substance used in the composition of” in the definition of the expression “drug” of the word “includes”;
- (b) by the addition after the definition of the expression “sale by wholesale” of the following new definition —

“sell” includes sell, offer for sale, expose for sale, distribute, have in possession for sale or distribution.’

3. Section 16 of the Principal Ordinance is hereby amended by the addition thereafter of the following proviso —

Amendment of section 16 of the Principal Ordinance

“Provided that the provisions of this section shall not apply to any person who obtained that diploma or licence before the 21st December, 1957, and was at that date a registered chemist and druggist under the provisions of the Pharmacy and Poisons Ordinance.”

Insertion of
new section
22A in the
Principal
Ordinance.

4. The Principal Ordinance is hereby amended by the insertion after section 22 of the following new section —

“Alternative conditions to be complied with by authorised sellers of poisons.

22A.(1) Where a business comprising the retail sale of drugs is being carried on, so far as it concerns the retail sale of drugs, at two or more sets of premises, it shall not be necessary, in order that the person carrying on the business may be an authorised seller of poisons, to comply with the conditions requiring the business to be under the personal control of a registered pharmacist at any of those sets of premises where no poisons included in Part I of the Poisons List are sold, if the conditions specified in section 24C of this Ordinance are complied with in lieu thereof and the premises are, subject to the provisions of subsection (3) of this section, registered under section 23 of this Ordinance.

(2) The reference in the preceding subsection to conditions requiring the business to be under the personal control of a registered pharmacist shall be construed as a reference to the conditions specified in the following provisions of this Ordinance—

- (a) paragraphs (a), (b), (c) and (d) of subsection (1) of section 20;
- (b) paragraphs (b), (c), (d) and (e) of subsection (1) of section 21; and
- (c) subsection (2) of section 22.

(3) All sets of premises which are required to be registered by subsection (1) of this section shall be entered in a separate part of the register kept under section 23 of this Ordinance, and the fee that may be prescribed under that section in respect of the registration or retention on the register of any such set of premises shall not exceed five dollars.

(4) Where an authorised seller of poisons carries on business at premises required to be registered by subsection (1) of this section—

- (a) every list sent by him to the Registrar in pursuance of subsection (1) of section 24 of this Ordinance shall distinguish between the sets of premises so required to be registered and the other sets of premises where his business, so far as it comprises the retail sale of drugs, is being carried on; and
- (b) in the case of any set of premises so required to be registered, it shall not be necessary for him to comply with the requirements of the said subsection as respects the name of the registered pharmacist having the personal control of the business on each set of premises.”

Insertion of
new sections
24A, 24B and
24C in the
Principal
Ordinance.

5. The Principal Ordinance is hereby amended by the insertion after section 24 of the following new sections—

“Separate sets of premises.

24A. Where a separate or distinct part, or two or more separate or distinct parts, of any premises at which a business which comprises the retail sale of drugs is carried on, is or are used for the retail sale of drugs, then for the purposes of this Ordinance, that part or each of those parts, as the case may be, shall be treated as being a separate set of premises.

Restriction of
sale of medi-
cine by unau-
thorised per-
sons.
Fourth
Schedule.

24B.(1) Subject to the provisions of this Ordinance, no person shall sell by retail any article mentioned in the Fourth Schedule hereto or any patent or proprietary medicine not containing a poison, unless he—

- (a) is a registered medical practitioner, or a registered dentist, or a registered veterinary surgeon supplying the article or medicine for an animal ailment or disorder; or
- (b) is an authorised seller of poisons; or

- (c) is a registered sicknurse and dispenser who is authorised under section 32 of this Ordinance to retail, dispense, supply or compound any drug or poison other than those contained in Part I of the Poisons List; or
- (d) not being a person of the type referred to in paragraph (a), (b) or (c) of this subsection, sells the article or medicine in the course of business at a set of premises which shall be registered under this Ordinance and in relation to which the conditions specified in section 24C of this Ordinance are complied with.

(2) Subject to the provisions of subsection (3) of this section, the provisions of subsections (2), (3), (4), (6) and (7) of section 23 of this Ordinance shall apply in relation to every set of premises required to be registered by paragraph (d) of the preceding subsection as if it were a set of premises referred to in subsection (1) of section 23 of this Ordinance.

(3) Every set of premises required to be registered by paragraph (d) of subsection (1) of this section shall be entered in a separate part of the register kept under section 23 of this Ordinance and the fee that may be prescribed under that section in respect of the registration or retention on the register of any such set of premises shall not exceed five dollars.

(4) An authorised seller of poisons shall not sell by retail any article mentioned in the Fourth Schedule to this Ordinance or any patent or proprietary medicine not containing a poison unless the sale is effected at premises registered under this Part of this Ordinance, not being premises registered under subsections (1), (2) and (3) of this section.

(5) A registered sicknurse and dispenser who is authorised under section 32 of this Ordinance to retail, dispense, supply or compound any drug or poison other than those contained in Part I of the Poisons List shall not sell by retail any article mentioned in the Fourth Schedule to this Ordinance or any patent or proprietary medicine not containing a poison unless the sale is effected at the premises where he carries on business in pursuance of such authorisation.

(6) Nothing in this section shall apply to a medicine supplied or dispensed by any hospital, dispensary or similar institution approved by the Board or extend to, or interfere with, the sale of any substance listed under Group I—General Exemptions in the Third Schedule to this Ordinance.

24C.(1) In relation to premises required to be registered by subsection (1) of section 22A or paragraph (d) of subsection (1) of section 24B of this Ordinance, the following conditions shall, subject to the provisions of subsections (4) and (5) of this section, be complied with—

- (a) the retail sale of drugs, or of drugs and medical appliances, or of drugs and surgical appliances or of drugs and medical and surgical appliances must not constitute a substantial part of the business carried on at the premises;
- (b) before any drug is sold at the premises, it must have been made up for sale in a container elsewhere than at the premises by or under the supervision of a registered pharmacist, or imported in a container from an establishment engaged in the manufacture of pharmaceutical preparations, and the container must not have been opened since the time when the drug was made up for sale or imported therein;

Third Schedule.

Conditions to be complied with in relation to premises required to be registered by section 22A (1) or 24B (1) (d).

- (c) drugs must not be dispensed or compounded on the premises;
- (d) prescriptions must not be received at the premises, and drugs dispensed or compounded elsewhere than at the premises for the use of a particular person must not be distributed at the premises or despatched therefrom;
- (e) subject to the provisions of this section, none of the following titles, descriptions or emblems must be used in connection with the business carried on at the premises, namely—
 - (i) the title of Pharmaceutical Chemist, Pharmaceutist, Pharmacist, Chemist and Druggist, Druggist, Chemist, or Dispensing Chemist; or
 - (ii) the description Pharmacy or Drug Store; or
 - (iii) any title, description or emblem reasonably calculated to suggest that the owner of the business or anyone employed therein possesses any qualification in connection with the dispensing, selling or compounding of drugs or poisons;
- (f) the business carried on at the premises must, so far as it concerns the retail sale of drugs, be conducted in accordance with such other conditions (if any) as may be prescribed by regulations made by the Governor-in-Council.

(2) The Governor-in-Council may make regulations for determining whether, in the circumstances specified in the regulations, the retail sale of drugs, or of drugs and medical appliances, or of drugs and surgical appliances, or of drugs and medical and surgical appliances, is or is not to be treated for the purposes of paragraph (a) of subsection (1) of this section as constituting a substantial part of the business carried on at any premises.

(3) Paragraph (e) of subsection (1) of this section shall not be construed as prohibiting the use on a container in which drugs are made up for sale, or on any label affixed to or document enclosed in such a container of the title or description of the person by whom, or the address at which, they were made up for sale, not being the title or description of the person carrying on the business at the premises in question or an address where drugs are sold by retail.

(4) Paragraphs (a), (b) and (f) of subsection (1) of this section shall not apply to any person who proves to the satisfaction of the Board that he was immediately before the 21st December, 1957, carrying on a business of which the retail sale of patent and proprietary medicines constituted the principal part.

(5) Notwithstanding the restrictions imposed by the foregoing provisions of this Ordinance on the use of certain titles, descriptions or emblems, any person who proves to the satisfaction of the Board that he was immediately before the 21st December, 1957, carrying on a business of which the retail sale of patent and proprietary medicines constituted the principal part, may use the description of Pharmacy or Drug Store in connection with any business carried on at premises registered in accordance with the provisions of this Ordinance."

Amendment of section 31 of the Principal Ordinance.

6. Section 31 of the Principal Ordinance is hereby amended by the repeal of paragraph (d) of subsection (1) thereof and the substitution therefor of the following—

- "(d) to a poison forming part of the ingredients of a medicine which is supplied by an authorised seller of poisons on premises

duly registered under this Ordinance, if the requirements contained in the following provisions of this section are satisfied in relation thereto."

7. Section 32 of the Principal Ordinance is hereby repealed and the following substituted therefor—

Repeal and re-enactment of section 32 of the Principal Ordinance.

"Drugs and poisons sold by sicknurses and dispensers.

32. (1) The Governor in Council may, by notice published in the Gazette, authorise any registered sick-nurse and dispenser to retail, dispense, supply or compound any drug or poison, other than those contained in Part I of the Poisons List, at premises specified in the notice.

(2) Application for any such authorisation may be made to the Registrar in the prescribed manner and upon payment of the prescribed fee in respect of the grant of the authorisation.

(3) Every application made under the preceding subsection shall be submitted to the Governor in Council by the Board with such observations or recommendations in respect thereof as the Board thinks fit.

(4) Where the Governor in Council proposes to act contrary to any such observations or recommendations, he shall inform the Board of his proposal and give the Board a reasonable opportunity of making any further observations or recommendations it may desire to make, and shall take into consideration any further observations or recommendations so made before reaching a final decision regarding the application.

(5) In considering any application made as aforesaid, regard shall be had to the skill and experience of the applicant in dispensing and compounding medicines, and to the existence or absence of adequate pharmaceutical services in the district where the premises, at which the applicant proposes to carry on business in pursuance of the authorisation applied for, are situated, and to any other circumstances the Governor in Council thinks fit.

(6) Every authorisation granted under this section shall expire on the 31st December, of the year in which it is granted but may, on or before the 31st December in each year during which it is in force, be extended by the Governor in Council to the end of the ensuing year by notice published in the Gazette.

(7) Application for any such extension may be made to the Registrar in the prescribed manner and upon payment of the prescribed fee in respect of the extension and every such application shall be submitted to the Governor in Council by the Board.

(8) No person carrying on business in pursuance of an authorisation under this section shall use any title, sign or description for the premises where the business is carried on other than the title, sign or description "Emergency Shop."

(9) The Governor in Council may, by notice published in the Gazette, revoke or refuse to extend any authorisation granted under this section, if the person to whom it was granted—

- (a) obtained such authorisation by fraud or misrepresentation; or
- (b) ceases to possess, or does not possess, any qualification by reason of which the authorisation was granted; or
- (c) has been convicted in any part of Her Majesty's dominions or elsewhere of an offence which in the opinion of the Governor in Council renders him unfit to continue to carry on business in pursuance of the authorisation; or
- (d) has been medically certified to be of unsound mind; or

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- (e) is convicted of an offence against the Dangerous Drugs Ordinance, or any Ordinance amending or replacing the same, or this Ordinance, which, in the opinion of the Governor in Council, renders him unfit to continue to carry on business in pursuance of the authorisation; or
- (f) is deemed by the Governor in Council guilty of—
- (i) habitual drunkenness or habitual addiction to any drug; or
 - (ii) such infamous conduct in any professional or other respect as in the opinion of the Governor in Council renders him unfit to be allowed to continue to carry on business in pursuance of the authorisation; or
 - (iii) negligence in compounding, dispensing or selling drugs or poisons, but the Governor in Council shall not revoke or refuse to extend any such authorisation by reason only of the establishment by any other person of adequate pharmaceutical services in the district since the authorisation was granted.

(10) Where the grant or extension of any authorisation under this section is refused, the Registrar shall refund to the applicant an amount equal to the fee in respect of such grant or extension paid upon application therefor.

(11) In the month of April in every year, the Registrar shall cause to be published in the Gazette a list of all persons granted authorisations under this section which were in force on the 31st March preceding with particulars of the situation of the respective premises to which such authorisations relate and a copy of the Gazette containing the most recent publication shall be *prima facie* evidence in all courts that the persons listed therein are authorised under this section to retail, dispense, supply or compound drugs or poisons on the respective premises mentioned therein, and on those premises only and the absence therefrom of the name of any person shall be *prima facie* evidence in all courts that he is not authorised under this section to retail, dispense, supply or compound drugs or poisons."

Repeal and re-enactment of section 33 of the Principal Ordinance.

8. Section 33 of the Principal Ordinance is hereby repealed and the following substituted therefor—

"Exemption with respect to sales by wholesale and sales to certain persons.

Third Schedule.
Fourth Schedule.

Fifth Schedule.

33. Except as provided by rules made under this Ordinance, nothing in the foregoing provisions of this Part of this Ordinance shall extend to or interfere with—

- (a) the sale of any substance mentioned in the Third or Fourth Schedule to this Ordinance; or
- (b) the sale of drugs and medicines mentioned in the Fifth Schedule to this Ordinance in premises which are registered under this Ordinance, or to which any licence granted hereunder relates, for use in trade or industry or for agricultural or horticultural purposes; or
- (c) the sale of poisons by way of wholesale dealing; or
- (d) the sale of poisons to be exported to purchasers outside British Guiana; or
- (e) the sale of an article to a registered medical practitioner, registered dentist or registered veterinary surgeon for the purpose of his profession; or

- (f) the sale of an article for use in or in connection with any hospital, infirmary, dispensary or similar institution approved by the Board; or
- (g) the sale of an article by a person carrying on a business in the course of which poisons are regularly sold either by way of wholesale dealing or for use by the purchasers thereof in their trade or business to—
- (1) a person who requires the article—
 - (i) for the purpose of his trade or business; or
 - (ii) for the purpose of enabling him to comply with any requirements made by or in pursuance of any enactment with respect to the medical treatment of persons employed by that person in any trade or business carried on by him; or
- (2) a government department or an officer of the Government requiring the article for the purpose of the public service, or any local authority requiring the article in connection with the exercise by the authority of any statutory powers; or
- (3) a person or institution concerned with scientific education or research, if the article is required for the purposes of that education or research.”

9.
by —

Section 40 of the Principal Ordinance is hereby amended

Amendment of section 40 of the Principal Ordinance.

- (a) the deletion therefrom of the words “on the recommendation of the Board”; and
- (b) the insertion thereafter of the following proviso —
 “Provided that where the Governor in Council proposes pursuant to this section to remove or add any substance from or to any of the said Schedules without any recommendation in that behalf having been made to him by the Board, or where the Board has submitted to the Governor in Council recommendations for the exercise of any powers conferred upon him by this section and the Governor in Council does not propose to implement such recommendations or any of them, the Governor in Council shall inform the Board of his proposals and give the Board a reasonable opportunity of making any observations it may desire to make with respect thereto, and shall take into consideration any observation so made before reaching a final decision.

10.
by —

Section 43 of the Principal Ordinance is hereby amended

Amendment of section 43 of the Principal Ordinance.

- (a) the substitution for the word “preparation” in paragraph (a) of subsection (1) of the word “preparations”; and
- (b) the substitution for the word “labelling” in paragraph (h) of subsection (1) of the words “importation, labelling and sale”.

11. Section 44 of the Principal Ordinance is hereby repealed and the following substituted therefor —

Repeal and re-enactment of section 44 of the Principal Ordinance.

“Authoritative Pharmacopoeias and Pharmaceutical Codex.

44.

The Board may, by notice published in the Gazette, declare that —

- (a) the most recent edition (at the time of publication of the notice) of the British Pharmacopoeia or the British Pharmaceutical Codex shall, in the case of all drugs manufactured in British Guiana or imported from the United Kingdom, be the authoritative reference for matters mentioned in the monographs therein; or

- (b) the most recent edition (at the time aforesaid) of the Pharmacopoeia of the United States of America shall, in the case of all drugs imported from the United States of America, be the authoritative reference for matters mentioned in the monographs therein; or
- (c) the most recent edition (at the time aforesaid) of the Pharmacopoeia *Internationalis* shall, in the case of all drugs imported from any other country, be the authoritative reference for matters mentioned in the monographs therein,

and the Board shall, in every such notice, appoint a day, not less than six months after publication thereof, on which the notice is to take effect, and on the day appointed in any such notice, the edition declared by the notice to be an authoritative reference in the case of all drugs shall be in force, as regards the matters mentioned in the monographs therein, as the standard of quality, fitness, genuineness, or composition for those drugs, until a more recent edition comes into force therefor under the provisions of this section:

Provided that the Board may, by notice published in the Gazette with the approval of the Governor in Council, substitute any other standards for any drug imported from any country other than the United Kingdom or the United States of America, and upon publication of any such notice the standards so substituted shall be in force for such drug until the Board, with the approval of the Governor in Council, varies or revokes the notice by subsequent notice published in the Gazette."

Amendment of
Third Schedule
to the
Principal Ordinance.

12. The Third Schedule to the Principal Ordinance is hereby amended —

- (a) by the substitution for the reference to section 33(1) (a) of a reference to section 33(a);
- (b) by the substitution for the words "Creosote obtained from" appearing in the list of substances referred to as "SPECIAL EXEMPTIONS" of the word "Chloroform"; and
- (c) by the substitution for the word "Cresote" before the words "obtained from wood" appearing in the list of substances referred to as "SPECIAL EXEMPTIONS" of the word "Creosote".

Amendment of
Fourth Schedule
to the
Principal Ordinance.

13. The Fourth Schedule to the Principal Ordinance is hereby amended by —

- (a) the substitution for the reference to section 33(1) (b) of a reference to sections 24B and 33(a);
- (b) the substitution for the substances listed therein of the substances listed in the Schedule to this Ordinance; and
- (c) the deletion of the words "Patent or Proprietary medicines marked with an asterisk contain POISON".

Schedule.

Amendment of
Fifth Schedule
to the
Principal Ordinance.

14. The Fifth Schedule to the Principal Ordinance is hereby amended by the substitution for the reference to section 33(1) (c) of a reference to section 33(b).

Amendment of
Sixth Schedule
to the
Principal Ordinance.

15. The Sixth Schedule to the Principal Ordinance is hereby amended by the substitution for the word "Second" in the part thereof lettered "A" of the word "Third".

Transitional provisions.

16.(1) No person shall be deemed to be, after the commencement of this Ordinance, entitled to do anything in contravention of the provisions of the Principal Ordinance, as amended by this Ordinance, on the ground that the right to do the same accrued to, or was conferred upon him by or under the provisions of the Principal Ordinance before the commencement of this Ordinance.

(2) Every registered sicknurse and dispenser who was, immediately before the commencement of this Ordinance, entitled to carry on business in pursuance of the provisions of the Principal Ordinance, or any permission granted thereunder, shall be deemed to have been

granted at the commencement of this Ordinance an authorisation under section 32 of the Principal Ordinance, as amended by this Ordinance, to retail, dispense, supply or compound any drug or poison other than those contained in Part I of the Poisons List at the premises where he was entitled to carry on business as aforesaid.

SCHEDULE

Section 13(b)

Alophen Pills	Meggezones Cough Syrup
Anethaine Ointment	Meggezones Lozenges
Boots Cold and Influenza Tablets	Mercurochrome Solution (1%)
Boots Golden Eye Ointment	Mustacreme
Bromodeine	Dr. Morse's Indian Root Pills
Buckley's Jack & Jill	Pectolin Diarrhoea Mixture
Buckley's Cough Mixture	Polson's Green Cough Syrup
Bynin Amara	Putnam's Corn Cure
Calahist	Rector's Fever Mixture
Carbolic Acid (1 in 40)	Rector's Indigestion Mixture
Catarrhzone	Regesan Children's Tonic
Codol	Roberts Baby Cough Syrup
Codol Compound	Robert's Cough Syrup
Crooke's Collotone Tonic	Soltan Calamine Cream
Dodd's Diamond Dinner Pills	Tablax Tablets
Dr. Chase's Paradol	Tusana Cocillana Linctus
Dr. John's White Pine Cough Syrup	Veganin Tablets
Ebefos	Vicks Cetamium Throat Tablets
Epitone	Vicks Formula 44—Cough Mixture
Evans C.T.L.	Types 2 & 3 only (no morphine salt)
Famel Syrup	Vicks Vapomist
Ferrol	Vicks Vatronol
Ferrol Compound	Vicks Wild Cherry Cough Drops
Ferrozone	Wampole's Creo-terpin
Germolene	Wampole's Phospho-lecithin
Gouldings Mixture for Children's Coughs & Colds	Wampole's Preparation
Green Cough Syrup	Wills' Eczema Ointment
Hamilton's Pills	Waterbury's Compound
Howard's Syrup—Plain	Zube's Cough Mixture
Howard's Syrup—Mentholated	
Kellogg's Eye Water	
ManZan for Piles	

OBJECTS AND REASONS.

The Pharmacy and Poisons Ordinance, 1956, prohibits the retail sale of drugs by a registered pharmacist, or other authorised seller of poisons, at any premises where the business is not carried on under the direct supervision of a registered pharmacist. A similar prohibition applies to registered sicknurses and dispensers in relation to premises within a three mile radius of the business of any registered pharmacist, unless they were registered as such at the commencement of the Ordinance or had already been granted permission to do so under the Ordinance before the registered pharmacist had established his business. The Ordinance also prohibits the sale of certain drugs listed in the Fourth Schedule thereto and patent or proprietary medicines by any unqualified trader within a radius of two miles of the business premises of any registered pharmacist, subject to certain exceptions. The Ordinance also prohibits a registered medical practitioner, dentist or veterinary surgeon from being registered as a pharmacist.

2. It is considered that, for the public convenience, these restrictions may safely be relaxed and clause 3 of the Bill seeks to amend the Ordinance in order to permit any person who was a registered medical practitioner, dentist or veterinary surgeon on the 21st December, 1957, and was on that date registered as a chemist and druggist to be registered as a pharmacist under the Ordinance.

3. Clauses 4 and 5 of the Bill seek to permit authorised sellers of poisons to sell drugs and poisons other than those specified in Part I of the Poisons List at registered premises where there is no registered pharmacist in charge, if the sale of drugs is not a substantial part of the business carried on there, and if no dispensing or compounding of medicines is done there and provided certain other conditions are observed. Clause 5 of the Bill seeks to permit unqualified traders to sell drugs listed in the Schedule to the Bill and patent or proprietary

medicines not containing poison, at registered premises on the same terms. Under clause 7 of the Bill it is sought to empower the Governor in Council to authorise any sufficiently skilled and experienced sick-nurse and dispenser to retail, dispense, supply or compound any drug or poison, other than those in Part I of the Poisons List, at specified premises in a district where there is need for such services.

4. Clause 11 seeks to provide more practicable authoritative references for the standards applicable to drugs which are sold in British Guiana, and also seeks to empower the Pharmacy and Poisons Board to substitute, with the approval of the Governor in Council, any other standards for foreign drugs so that pharmacists should not be governed by any standards which are not considered acceptable in this country. Provision is also included to make the times of the coming into force of such standards more satisfactory.

JANET JAGAN

Minister of Labour, Health and Housing.

(M.P. MED: C. 71/3/5).

(Leg. Bill 16/1960).