

South Australia



**CONTROLLED SUBSTANCES (GENERAL OFFENCES—POISONS)
AMENDMENT ACT 1995**

No. 98 of 1995

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ELIZABETHAE II REGINAE

A.D. 1995

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An Act to amend the Controlled Substances Act 1984.

[Assented to 14 December 1995]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Controlled Substances (General Offences—Poisons) Amendment Act 1995*.

(2) The *Controlled Substances Act 1984* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 13—Manufacture, production and packing

3. Section 13 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 14—Sale by wholesale

4. Section 14 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 15—Sale or supply to end user

5. Section 15 of the principal Act is amended—

- (a) by inserting in subsection (1) "or supply to a person" after "sell by retail";
- (b) by striking out from subsection (1)(a) "or" and substituting ", medical practitioner, dentist or";
- (c) by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

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Amendment of s. 16—Sale of certain poisons

6. Section 16 of the principal Act is amended by striking out from the penalty provision at the foot of subsections (1), (2), (3) and (4) "Two thousand dollars" (wherever occurring) and substituting, in each case, "\$10 000".

Amendment of s. 17—Sale of poisons the possession of which requires a licence

7. Section 17 of the principal Act is amended by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

Substitution of s. 18

8. Section 18 of the principal Act is repealed and the following section is substituted:

Sale, supply, administration and possession of prescription drugs

18. (1) A person must not sell by retail, supply or administer to another person or to an animal, or prescribe for a person or an animal, a prescription drug (not being a drug of dependence) unless he or she is—

- (a) a medical practitioner, dentist, veterinary surgeon or nurse acting in the ordinary course of his or her profession; or
- (b) a member of any other prescribed profession acting in the ordinary course of that profession and in accordance with the regulations; or
- (c) a pharmacist dispensing the prescription of a medical practitioner, dentist, veterinary surgeon or member of a prescribed profession; or
- (d) a person administering to another person or to an animal a prescription drug that has been lawfully prescribed for or supplied to that other person, or that animal; or
- (e) a person licensed to do so by the Health Commission.

Penalty: \$10 000 or imprisonment for 2 years.

(2) A member of a profession referred to in or prescribed under subsection (1) must not supply or administer to another person a prescribed prescription drug unless he or she holds prescribed qualifications.

Penalty: \$10 000 or imprisonment for 2 years.

(3) A person must not have in his or her possession a prescription drug unless he or she—

- (a) is the person, or is acting on behalf of the person, for whom the drug has been lawfully prescribed or supplied; or
- (b) is the owner, or is acting on behalf of the owner, of an animal for whom the drug has been lawfully prescribed or supplied; or
- (c) is a person authorised by law to sell or supply prescription drugs; or
- (d) is licensed to do so by the Health Commission; or

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(e) has other lawful authority or reasonable excuse for doing so.

Penalty: \$10 000 or imprisonment for 2 years.

(4) In any proceedings for an offence against subsection (3), the onus of proving lawful authority or reasonable excuse lies on the defendant and in the absence of such proof it will be presumed that no such authority or excuse exists.

Amendment of s. 19—Sale or supply of volatile solvents

9. Section 19 of the principal Act is amended by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 20—Prohibition of automatic vending machines

10. Section 20 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "One thousand dollars" and substituting "\$5 000".

Amendment of s. 21—Sale or supply of other potentially harmful substances or devices

11. Section 21 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (2) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 22—Possession

12. Section 22 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 23—Quality

13. Section 23 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

Substitution of s. 24

14. Section 24 of the principal Act is repealed and the following section is substituted:

Packaging and labelling

24. A person must not sell by wholesale or by retail or supply to a person a poison, therapeutic substance or therapeutic device unless—

- (a) it is enclosed in a package or container;
 - (b) the package or container conforms with the regulations;
- and
- (c) the package or container is labelled in accordance with the regulations.

Penalty: \$10 000.

Amendment of s. 25—Storage

15. Section 25 of the principal Act is amended—

- (a) by striking out "otherwise than in accordance with" and substituting "contrary to";
- (b) by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

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Amendment of s. 26—Transport

16. Section 26 of the principal Act is amended—

- (a) by striking out "otherwise than in accordance with" and substituting "contrary to";
- (b) by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

Substitution of s. 27

17. Section 27 of the principal Act is repealed and the following section is substituted:

Use

27. A person must not—

- (a) use a poison, therapeutic substance or therapeutic device for a purpose or in a manner prohibited by the regulations; or
- (b) sell, supply, prescribe, or purchase a poison, therapeutic substance or therapeutic device for a purpose prohibited by the regulations.

Penalty: \$10 000.

Amendment of s. 28—Prohibition of advertisement

18. Section 28 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (1) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 29—Regulation of advertisement

19. Section 29 of the principal Act is amended—

- (a) by striking out "shall not, except in accordance with the regulations, advertise" and substituting "must comply with the regulations in advertising";
- (b) by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 30—Forgery, etc., of prescriptions

20. Section 30 of the principal Act is amended—

- (a) by striking out from the penalty provision at the foot of subsection (1) "Five thousand dollars" and substituting "\$15 000";
- (b) by striking out from the penalty provision at the foot of subsection (2) "Two thousand dollars" and substituting "\$10 000";
- (c) by inserting after subsection (2) the following subsection:

(2a) A person must not, in or in connection with obtaining a prescription drug, give to the person prescribing or supplying the drug a name or address that is false.

Penalty: \$10 000.

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Amendment of s. 52—Power to search, seize, etc.

21. Section 52 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (12) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 55—Licences, authorities and permits

22. Section 55 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (2a) "\$1 000" and substituting "\$5 000".

Amendment of s. 57—Power of Health Commission to prohibit certain activities

23. Section 57 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (4) "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 59—Duty not to divulge information relating to trade processes

24. Section 59 of the principal Act is amended by striking out from the penalty provision at the foot of the section "Two thousand dollars" and substituting "\$10 000".

Amendment of s. 60—Health Commission may require certain information to be given

25. Section 60 of the principal Act is amended by striking out from the penalty provision at the foot of subsection (4) "One thousand dollars" and substituting "\$5 000".

Amendment of s. 63—Regulations

26. Section 63 of the principal Act is amended—

- (a) by striking out from subsection (4)(i) "one thousand dollars" and substituting "\$5 000";
- (b) by striking out subsection (5) and inserting the following subsections:

(5) The regulations may refer to or, by reference, incorporate (with or without modifications) any code, standard, pharmacopoeia or other document published inside or outside of this State and a code, standard, pharmacopoeia or other document so referred to or incorporated has effect, as amended from time to time by the authority responsible for its publication, as if it were a regulation made under this Act.

(5a) If a code, standard, pharmacopoeia or other document is referred to or incorporated in the regulations (or in a code, standard, pharmacopoeia or other document referred to or incorporated in the regulations)—

- (a) a copy of the code, standard, pharmacopoeia or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
- (b) evidence of the contents of the code, standard, pharmacopoeia or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard, pharmacopoeia or other document.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor