STATUTORY INSTRUMENTS

1976 No. 1214 (N.I. 23)

Poisons (Northern Ireland) Order 1976

- - - - - - *[30th July 1976]*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Poisons (Northern Ireland) Order 1976.

(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Department" means the Department of Health and Social Services;

"district council's register" has the meaning assigned to it by Article 4(3)(b);

"fully registered person" has the meaning assigned to it by**[**F1 section 55 of the Medical Act 1983**]**;

"the Medicines Act" means the Medicines Act 1968 ;

"methylated ether" includes any ether manufactured from methylated spirits or from industrial spirits and preparations containing methylated ether;

"person lawfully conducting a retail pharmacy business" shall be construed in accordance with section 69 of the Medicines Act;

"pharmacist" means a person who is, or is deemed to be, a pharmacist for the purposes of any provision of the Medicines Act **[**F2or the Human Medicines Regulations 2012**]**;

"the Poisons Inspector" means an inspector appointed under Article 16(1);

"the Poisons List" has the meaning assigned to it by Article 4(8);

"prescribe" means prescribe by regulations;

Definition rep. by 1991 NI 7

"registered" means—

(a) in relation to a pharmacist, registered in the appropriate register under Article 6 of the Pharmacy (Northern Ireland) Order 1976 ;

(b) in relation to a dentist, registered in pursuance of the Dentists Act 1957 ;

(c) in relation to a veterinary practitioner, registered in pursuance of the Veterinery Surgeons Act 1966 in the supplementary veterinary register;

(d) in relation to a veterinary surgeon, registered in pursuance of the said Act of 1966;

(e) in relation to a person registered under Article 7 as a person entitled to sell non-medicinal poisons included in Part II of the Poisons List, registered in pursuance of that Article;

"registered dentist" includes a body corporate entitled to carry on the business of dentistry;

"registered pharmacy" has the meaning assigned to it by section 74 of the Medicines Act;

"regulations" means regulations made by the Department subject to negative resolution;

"retail pharmacy business" has the meaning assigned to it by **[**F3regulation 8(1) of the Human Medicines Regulations 2012**]**;

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

(3) In this Order, "non-medicinal poison" means a substance which is included in Part I or Part II of the Poisons List and is neither—

(a) a medicinal product as defined in section 130 of the Medicines Act; nor

(b) a substance in relation to which, by virtue of an order under section 104 or 105 of that Act (and whether, in the case of an order under section 104 of that Act, it is referred to in the order as a substance or as an article), the provisions of sections 51 to 54 and 69 to 77 of that Act (whether subject to exceptions and modifications or not and with or without other provisions of that Act) have effect as they have effect in relation to medicinal products as so defined.

F1 1983 c. 54
F2 Words in art. 2(2) inserted (14.8.2012) by The Human Medicines Regulations 2012 (S.I. 2012/1916), reg. 1(2), **Sch. 34 para. 48(a)** (with Sch. 32)
F3 Words in art. 2(2) substituted (14.8.2012) by virtue of The Human Medicines Regulations 2012 (S.I. 2012/1916), reg. 1(2), **Sch. 34 para. 48(b)** (with Sch. 32)

PART II

THE POISONS BOARD

The Poisons Board

3. There shall continue to be a Poisons Board and the provisions of Schedule 1 shall have effect with respect to the constitution of the Poisons Board and other matters relating to that Board and its members.

Functions of Poisons Board

4.—(1) The Poisons Board shall advise the Department on the substances which are to be treated as non-medicinal poisons for the purposes of this Order and on such other matters (if any) as may be referred to it by the Department.

(2) The Poisons Board shall prepare and submit to the Department for confirmation a list of the substances which are to be treated as non-medicinal poisons for the purposes of this Order.

(3) The said list shall consist of two parts of which—

(a) Part I shall contain those substances which are, by virtue of and subject to the provisions of this Order, prohibited from being sold except by a person lawfully conducting a retail pharmacy business; and

(b) Part II shall contain those substances which are, by virtue of and subject to the provisions of this Order, prohibited from being sold except by a person lawfully conducting a retail pharmacy business or a person whose name is entered in a register kept under this Order by a district council ("a district council's register").

(4) In determining the distribution of poisons as between Part I and Part II of the said list, regard shall be had to the desirability of restricting the said Part II to non-medicinal poisons which are in common use, or likely to come into common use and which it is reasonably necessary to include in the said Part II if the public are to have adequate facilities for obtaining them.

(5) The Department shall forthwith take into consideration the list submitted by the Poisons Board and may by order confirm it, with or without modifications, as the Department may think proper, so however that, where the Department proposes to confirm the list with modifications, the Department shall inform the Poisons Board of the proposed modifications and give to the Poisons Board a reasonable opportunity of making any observations with respect thereto, and shall, before finally confirming the list, take into consideration any observations so made.

(6) The Department may, after consultation with or on the recommendation of the Poisons Board, by order amend or vary the said list as the Department thinks proper.

(7) An order made under paragraph (5) or (6) shall—

(a) be subject to negative resolution; and

(b) come into operation on a date to be specified therein, which date shall not be earlier than one month from the making of the order.

(8) The said list as in force by virtue of orders made by the Department under this Article shall be known as "the Poisons List" for the purposes of this Order and this Order shall have effect as if references in this Order to the Poisons List were construed as references to the said list as so in force, so however that the Poisons Schedule in force under the Pharmacy and Poisons Acts (Northern Ireland) 1925 to 1955 at the commencement of this Order shall remain in full force and effect until the coming into operation of the first order made by the Department after the commencement of this Order confirming a list under paragraph (5).

PART III

CONTROL OF NON-MEDICINAL POISONS

Prohibitions and regulations with respect to sale of non-medicinal poisons

5.—(1) Subject to the provisions of this Order, a person shall not sell—

(a) any non-medicinal poison which is a substance included in Part I of the Poisons List unless—

(i) he is a person lawfully conducting a retail pharmacy business;

(ii) the sale is effected on premises which are a registered pharmacy; and

(iii) the sale is effected by, or under the personal control of, a pharmacist;

(b) any non-medicinal poison which is a substance included in Part II of the Poisons List unless—

(i) he is a person lawfully conducting a retail pharmacy business and the sale is effected on premises which are a registered pharmacy; or

(ii) his name is entered in a district council's register in respect of the premises on which the poison is sold;

(c) any non-medicinal poison, whether it is a substance included in Part I or in Part II of the Poisons List, unless the container of the poison is labelled in the prescribed manner—

(i) with the name of the poison;

(ii) 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;

(iii) with the word "poison" or other prescribed indication of the character of the article; and

(iv) with the name of the seller of the poison and the address of the premises on which it was sold.

(2) Subject to the provisions of this Order and to any regulations dispensing with or relaxing any of the requirements of this paragraph—

(a) a person shall not sell any non-medicinal poison which is a substance included in Part I of the Poisons List to any other person, unless that other person is either—

(i) certified in writing in the manner prescribed by regulations, and by a person authorised by regulations to give a certificate for the purposes of this Article; or

(ii) known by the seller or by some pharmacist in the employment of the seller at the premises where the sale is effected;

to be a person to whom the poison may properly be sold;

(b) the seller of any such poison shall not deliver it until—

(i) he has made or caused to be made an entry in a book to be kept for that purpose stating, in the form prescribed by regulations, the date of the sale, the name and address of the purchaser and of the person, if any, by whom the certificate required under sub-paragraph (*a*) was given, the name and quantity of the poison sold and the purposes for which it is stated by the purchaser to be required; and

(ii) the purchaser has affixed his signature to the entry aforesaid.

Exemption with respect to certain sales

6. Except as provided by regulations, nothing in the foregoing provisions of this Order shall extend to or interfere with the sale of non-medicinal poisons—

(a) by way of wholesale dealing; or

(b) to be exported to purchasers outside Northern Ireland; or

(c) to a duly qualified medical practitioner, registered dentist or registered veterinary surgeon or veterinary practitioner for the purpose of his profession; or

(d) for use in or in connection with any hospital or similar institution approved by an order of the Department; or

(e) 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—

(i) a person who requires the poison for the purpose of his trade or business; or

(ii) a Government department requiring the poison for the purposes of the public service, or any district council requiring the poison in connection with the exercise by the district council of any statutory power; or

(iii) a person or institution concerned with scientific education or research, if the poison is required for the purposes of that education or research.

Registration of certain persons as sellers of certain non-medicinal poisons

7.—(1) Subject to paragraph (2), every district council shall—

(a) keep a register of persons entitled to sell non-medicinal poisons which are substances included in Part II of the Poisons List on premises in respect of which their names are entered in the register; and

(b) enter in the register the name of any person who, having premises in the district of the council, makes an application to the district council in the prescribed form to have his name entered in the register in respect of those premises.

(2) The district council may refuse to enter in, or may remove from, the register the name of any person who fails to pay**[**F4 any fees determined by the council under paragraph (5)**]** or who, in the opinion of the district council, is, for any sufficient reason relating either to him personally or to his premises, not fit to have his name in the register.

(3) If any person is aggrieved by the refusal of the district council to enter his name in the register or by the removal of his name therefrom under this Article, he may appeal to the Department against the refusal or removal.

(4) A district council's register shall include particulars of the premises in respect of which the name of any person is entered in the register, and shall be in such form as may be prescribed.

(5) Every person shall pay to the district council such**[**F4 reasonable fees as the council may determine**]** in respect of—

(a) the entry of his name in the district council's register;

(b) the making of any alteration in the district council's register in relation to the premises on which he is entitled to sell; and

(c) the retention of his name in the district council's register in any year subsequent to the year in which his name is first entered therein.

(6) If any person whose name is entered in a district council's register is convicted before any court of any criminal offence which, in the opinion of the court, renders him unfit to have his name in the register, the court may, as part of the sentence, order his name to be removed from the register and direct that he shall, for such period as may be specified in the order, be disqualified from having his name entered in any district council's register.

(7) Every district council's register shall be open at all reasonable times to the inspection of any person without any fee, and a copy thereof or an extract therefrom shall be furnished without any fee by the council to the Department upon an application made by an officer of the Department.

(8) A person whose name is entered in a district council's register shall not use in connection with his business any title, emblem or description reasonably calculated to suggest that he is entitled to sell any non-medicinal poison other than a poison which he is under this Order entitled to sell, and if any person acts in contravention of this paragraph he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F5 level 3 on the standard scale**]** and where this paragraph is again contravened within one year after the conviction to a further fine not exceeding £10 for every day subsequent to the day on which he is first convicted of an offence under this paragraph on which it is so contravened.