



POISONS.

No. 95 of 1973.

ANALYSIS.

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AN ACT to amend the *Poisons Act* 1971.

[22 January 1974.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Poisons Act* 1973.

Short title and citation.

(2) The *Poisons Act* 1971 is in this Act referred to as the Principal Act.

Interpretation.

2 Section three of the Principal Act is amended—

- (a) by inserting in the definition of “ coca leaves ” in subsection (1) of that section, after the word “ means ”, the words “ the leaves of ”;
- (b) by omitting from the definition of “ dangerous poison ” in that subsection the word “ first ” and substituting therefor the word “ seventh ”;
- (c) by inserting in that subsection, after the definition of “ drug dependency ”, the following definition:—
 - “ ‘ hazardous poison ’ means a substance that is, for the time being, specified in the first schedule to the Poisons List ”; and
- (d) by omitting from that subsection the definition of “ special poison ”.

The Poisons List.

3 Section fourteen of the Principal Act is amended—

- (a) by omitting from paragraph (a) of subsection (2) the words “(in the draft list to be called ‘ dangerous poisons ’) ”;
- (b) by omitting from paragraph (b) of that subsection the words “(in the draft list to be called ‘ medicinal poisons ’) ”;
- (c) by omitting from paragraph (c) of that subsection the words “(in the draft list to be called ‘ potent substances ’) ”;
- (d) by omitting from paragraph (d) of that subsection the words “(in the draft list to be called ‘ restricted substances ’) ”;
- (e) by omitting from paragraph (e) of that subsection the words “(in the draft list to be called ‘ domestic poisons ’) ”;
- (f) by omitting from paragraph (f) of that subsection the words “(in the draft list to be called ‘ industrial and agricultural poisons ’) ”;
- (g) by omitting from paragraph (g) of that subsection the words “(in the draft list to be called ‘ special poisons ’) ”; and
- (h) by omitting from paragraph (h) of that subsection the words “(in the draft list to be called ‘ narcotic substances ’) ”.

Heading to Division II of Part III.

- 4** The heading to Division II of Part III of the Principal Act is amended by omitting the word “ *Special* ” and substituting therefor the word “ *Dangerous* ”.

5 Section fifty of the Principal Act is amended by omitting therefrom the words “ section forty-six or section forty-eight ” and substituting therefor the words “ sections forty-six, forty-eight, forty-nine, or fifty-five ”.

Exceptions as to scientific institutions.

6 Section sixty-one of the Principal Act is amended by omitting from paragraph (f) of subsection (1) the word “ practicable ” and substituting therefor the word “ practicable ”.

Analysis of substance procured by inspector.

7 After section sixty-nine of the Principal Act the following section is inserted in Division II of Part VI:—

“ 69A—(1) A prosecution for an offence against this Act (not being a prosecution for a contravention of subsection (1) or subsection (3) of section forty-seven) may be instituted at any time within two years after the commission of the offence.

Time for instituting prosecutions. Cf. No. 33 of 1968, s. 53.

“(2) Notwithstanding anything in subsection (1) of this section, where a prosecution for an offence to which this section applies is instituted more than six months after the commission of the offence, the court may dismiss the charge if it considers that in the circumstances of the case it would be unjust, having regard to the period of time which has elapsed since the commission of the offence, to proceed with the prosecution.”.

8 Section eighty-three of the Principal Act is repealed and the following section is substituted therefor:—

“ 83—(1) No person shall—

- (a) sell or supply a scheduled substance, or distribute a scheduled substance free or as a sample, in any street or from place to place;
- (b) hawk or peddle a scheduled substance; or
- (c) whether by appointment or otherwise, go from place to place selling, supplying, or distributing (whether free or as a sample) a scheduled substance.

Hawking, &c., of scheduled substances prohibited.

“(2) Subsection (1) of this section does not apply to any wholesale dealing or in relation to the free distribution of clinical samples of a scheduled substance (other than a narcotic substance)

to medical practitioners, dentists, or veterinary surgeons by persons engaged in the manufacture of, or dealing in, any such substance, where the distribution is made to the medical practitioner, dentist, or veterinary surgeon personally or by posting, by registered post, a letter or parcel containing the substance addressed to him.

“(3) In this section, ‘street’ has the same meaning as it has in the *Police Offences Act 1935*.”.

Forfeiture of substances, &c., in certain cases.

9 Section eighty-four of the Principal Act is amended by inserting in subsection (2), before the words “be disposed of”, the word “to”.

Powers of entry and search.

10 Section ninety of the Principal Act is amended—

(a) by omitting from subsection (5) the words “has in his possession without lawful excuse” and substituting therefor the words “, without lawful excuse, has in his possession, or is or has been concerned in the importation, sale, or supply of or in trafficking in,”; and

(b) by omitting subsection (7) and substituting therefor the following subsection:—

“(7) Where, pursuant to subsection (5) of this section, a police officer searches or is entitled to search a person, the police officer may arrest that person without warrant if—

(a) the police officer reasonably considers that that person is committing or has committed an offence against this Act in relation to a raw narcotic, narcotic substance, prohibited substance, restricted substance, or prohibited plant; or

(b) that person fails to comply with a requirement, made of him under subsection (6) of this section or, in response to such a requirement, gives information that the police officer reasonably believes to be false.”.

Consequential amendments.

11 The sections of the Principal Act that are specified in the first column of the schedule to this Act are amended as respectively specified in the second column of that schedule.

THE SCHEDULE.

(Section 11.)

Consequential amendments.

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
26	From paragraph (a) of subsection (4) omit "dangerous" and substitute "hazardous"
27	From paragraph (a) of subsection (7) omit "dangerous" and substitute "hazardous"
28	From subsection (1) omit "dangerous" and substitute "hazardous"
29	Omit "dangerous" (wherever occurring) and substitute "hazardous", in each case
30	Omit "dangerous" (wherever occurring) and substitute "hazardous", in each case
31	Omit "dangerous" (wherever occurring) and substitute "hazardous", in each case
32	From subsection (1) omit "dangerous" and substitute "hazardous"
33	Omit "dangerous" (wherever occurring) and substitute "hazardous", in each case
34	From subsection (1) omit "dangerous" and substitute "hazardous"
37	From paragraph (a) of subsection (1) omit "special" and substitute "dangerous"
38	Omit "dangerous" (wherever occurring) and substitute "hazardous", in each case
93	From paragraph (a) of subsection (2) omit "dangerous" and substitute "hazardous".