



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Altering Short Titles of principal Act and amending Acts</p> <p>3. Interpretation</p>	<p>4. Power to declare substances to be restricted drugs, etc.</p> <p>5. Restricted Drugs Committee</p> <p>6. Consequential amendments</p> <p>7. Food and Drug Act 1969 consequentially amended</p> <p>Schedule</p>
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1979, No. 28

An Act to amend the Poisons Act 1960

[19 October 1979]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Restricted Drugs Amendment Act 1978, and shall be read together with and deemed part of the Act heretofore known as the Poisons Act 1960 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

2. Altering Short Titles of principal Act and amending Acts—(1) The principal Act may hereafter be cited as the Restricted Drugs Act 1960.

(2) The Short Title of the principal Act and the Short Titles of—

- (a) The Poisons Amendment Act 1962:
- (b) The Poisons Amendment Act 1964:

(c) The Poisons Amendment Act 1967:

(d) The Poisons Amendment Act 1969—

are hereby consequentially amended, in each case, by omitting the word “Poisons”, and substituting the words “Restricted Drugs”.

(3) Every reference in any enactment to any of the said Acts is hereby consequentially amended by omitting the word “Poisons”, and substituting the words “Restricted Drugs”.

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting the definitions of the terms “drug”, “poison”, “poisonous substance”, “prescription poison”, “restricted poison”, and “toxic substance”.

(2) The said section 2 (1) is hereby further amended by inserting, before the definition of the term “Registrar”, the following definition:

“‘Prescription drug’ means any substance declared under section 4 of this Act to be a prescription drug:”.

(3) The said section 2 (1) is hereby further amended by omitting from the definition of the term “Registrar” the words “Public Health”, and substituting the words “Clinical Services”.

(4) The said section 2 (1) is hereby further amended by inserting, before the definition of the term “sale”, the following definition:

“‘Restricted drug’ means any substance declared under section 4 of this Act to be a restricted drug; and includes any substance declared under that section to be a prescription drug:”.

(5) Section 2 of the principal Act is hereby further amended by repealing subsection (1A) (as inserted by section 2 (2) of the Restricted Drugs Amendment Act 1969), and substituting the following subsections:

“(1A) Every reference in this Act to a poison (other than a prescription poison) or a poisonous substance shall be deemed to be a reference to a restricted drug.

“(1B) Every reference in this Act to a prescription poison shall be deemed to be a reference to a prescription drug.

“(1C) Every reference in this Act to a poison or poisonous substance (restricted drug), including a reference to a prescription poison (prescription drug), shall be deemed to include a reference to any substance, preparation, mixture,

compound, or article comprising, otherwise than in an insignificant quantity, the restricted drug or prescription drug.”

(6) Section 2 of the Restricted Drugs Amendment Act 1969 is hereby consequentially repealed.

4. Power to declare substances to be restricted drugs, etc.—

The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. (1) For the purposes of this Act, but subject to the provisions of subsection (2) of this section, the Governor-General may from time to time, by Order in Council, declare any substance to be a restricted drug or a prescription drug.

“(2) A substance shall be declared to be a prescription drug under subsection (1) of this section only on the recommendation of the Minister after consultation by him with the Restricted Drugs Committee appointed under this Act.

“(3) Any order under this section may relate to any substance specified by its name or trade name, or to any class of substances identified by a description of that class; and any such substance or class may be identified in the order by reference to its registration under any enactment, or to its pharmacological action, or to its use or the purpose for which it is intended to be used.

“(4) Any order under this section may specify the circumstances in which any substance is or is not to be a restricted drug or a prescription drug.”

5. Restricted Drugs Committee—(1) Section 6 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) There shall be appointed under section 5 of this Act an advisory committee to be called the Restricted Drugs Committee, whose duty it shall be to consult with the Minister before any substance is declared to be a prescription drug under section 4 of this Act, and to consider the regulations which it is proposed to make under paragraph (m) or paragraph (n) of section 53 (2) of this Act and to consult with the Minister thereon.”

(2) Every person who, immediately before the commencement of this Act, was a member of the Poisons Committee appointed under section 5 of the principal Act, shall be deemed to have been appointed as a member of the Restricted Drugs Committee.

(3) For the purposes of section 6 (4) (b) of the principal Act, every person to whom subsection (2) of this section applies shall be deemed to have been appointed as a member of the Restricted Drugs Committee on the date on which he was appointed as a member of the Poisons Committee.

6. Consequential amendments—(1) The provisions of the principal Act specified in the first column of the Schedule to this Act are hereby consequentially amended in the manner indicated in the second column of that Schedule.

(2) Sections 5, 8, and 9 of the Restricted Drugs Amendment Act 1969 are hereby consequentially repealed.

7. Food and Drug Act 1969 consequentially amended—Section 18 (3) (g) of the Food and Drug Act 1969 is hereby amended by repealing subparagraph (ii), and substituting the following subparagraph:

“(ii) Of any drug not being or containing a toxic substance within the meaning of the Toxic Substances Act 1979; or”.

SCHEDULE

Section 6

AMENDMENTS TO PRINCIPAL ACT

Section	Amendments
Section 2	By omitting from subsection (2), and also from subsection (3), the words “or toxic substance”.
Section 8	By repealing subsection (3).
Section 22	By repealing subsection (3).
Section 26 (as substituted by section 7 of the Restricted Drugs Amendment Act 1969)	By omitting from subsection (1) the words “prescription poison or restricted poison”, and substituting the words “prescription drug”. To omit from paragraph (a) of subsection (2) the word “poison”, and substitute the words “prescription drug”. To omit from paragraph (c), and from paragraph (d), and from paragraph (e), and from paragraph (f), of that subsection the words “poison, being a prescription poison,”, and substitute in each case the words “prescription drug”. To omit from subsection (3) the words “prescription poison or any restricted poison”, and substitute the words “prescription drug”.

SCHEDULE—*continued*

Section	Amendments
Section 26 (as substituted by section 7 of the Restricted Drugs Amendment Act 1969)— <i>continued</i>	To omit from subsection (4) the words “prescription poison or a restricted poison, as the case may require,” and substitute the words “prescription drug”.
Section 27	By repealing the section.
Section 28	By omitting from subsection (1) the words “toxic substance”, and substituting the words “restricted drug”. By repealing subsection (2).
Section 29	By repealing the section.
Section 30	By omitting from subsection (2), and also from paragraphs (b), (c), and (d) of subsection (3), the words “poison or poisonous substance or toxic substance”, and substituting in every case the words “restricted drug”.
Section 31	By omitting from subsection (1) the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”.
Section 33	By omitting from subsection (1) the words “poison or a poisonous substance or a toxic substance”, and substituting the words “restricted drug”. By repealing subsection (6).
Section 40	By omitting from subsection (1) the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”; and also by omitting from that subsection the words “poison, poisonous substance, toxic substance,” and substituting the words “restricted drug”.
Section 41	By omitting from subsection (1) the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”.
Section 51	By omitting from subsection (1) the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”.
Section 53	By omitting from paragraph (c) of subsection (2) the words “poison, poisonous substance, or toxic substance”, and substituting the words “restricted drug”. By omitting from paragraph (d) of that subsection the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”.

SCHEDULE—*continued*

Section	Amendments
Section 53— <i>continued</i>	<p>By omitting from paragraph (e) of that subsection the words “poisons or poisonous substances or toxic substances” in both places where they occur, and substituting in each case the words “restricted drugs”.</p> <p>By omitting from paragraph (f) of that subsection the words “poisons or poisonous substances or toxic substances”, and substituting the words “restricted drugs”.</p> <p>By omitting from paragraph (h) of that subsection the words “poisons or poisonous substances or toxic substances”, and substituting the words “restricted drugs”.</p> <p>By omitting from paragraph (i) of that subsection the words “poisons or poisonous substances or toxic substances” in both places where they occur, and substituting in each case the words “restricted drugs”.</p> <p>By omitting from paragraph (j) of that subsection the words “poison or poisonous substance or toxic substance”, and substituting the words “restricted drug”.</p> <p>By repealing paragraph (p) of that subsection, and substituting the following paragraph:</p> <p style="padding-left: 40px;">“(p) Providing for the exemption of restricted drugs, either wholly or partly, from any of the provisions of this Act or of the regulations:”.</p> <p>By omitting from subsection (3) the word “Poisons”, and substituting the words “Restricted Drugs”.</p> <p>By repealing subsection (4), and substituting the following subsection:</p> <p style="padding-left: 40px;">“(4) Notwithstanding anything in any regulation made under this Act, it shall be lawful for any person, at any time within 12 months after the commencement of the regulation, to sell any restricted drug, not being a prescription drug, as if the regulation had not been enacted, if at the said date the restricted drug was part of the existing stock-in-trade in New Zealand of any person lawfully carrying on business there, and since the said date no act has been done</p>

SCHEDULE—*continued*

Section	Amendments
Section 53— <i>continued</i>	whereby the restricted drug fails to conform to the regulation. For the purpose of this subsection any goods purchased before the said date for importation into New Zealand shall be deemed to be part of the purchaser's stock-in-trade in New Zealand."

This Act is administered in the Department of Health.
