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Non-Medicinal Poisons



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6 NON-MEDICINAL POISONS

A “non-medicinal poison”, or simply a “poison”, is a substance that is included in the Poisons List Confirmation Order made under the Poisons (NI) Order 1976. A reference to a poison includes substances containing that poison. Other substances, no matter how toxic, are not poisons under this Order.

The Royal Pharmaceutical Society of Great Britain has produced a useful fact sheet on poisons (www.rpsgb.org – Legal & Ethical Advisory Service)

A committee called the Poisons Board advises the DHSSPS about which substances should be included in the Poisons List Confirmation Order, and about the content of the Poisons Regulations that contain the detail of the legislation.

Some substances in the Poisons List also have medicinal uses. When sold as medicines, such substances are controlled by the Medicines Act 1968, but when sold for non-medicinal purposes they are subject to the Poisons (NI) Order 1976.

The Poisons List Confirmation Order 1983 is divided into two parts. In general, substances included in Part I of the List (i.e. Part I poisons) may be sold only by persons lawfully conducting retail pharmacy businesses. Such sales must be conducted at a registered pharmacy under the supervision of a pharmacist.

Part II poisons may be sold both by such persons and by Registered Sellers of Part II poisons, that is by persons whose names appear in a register of sellers maintained by a district council. A Registered Seller may nominate one or two deputies who also may effect the sale of Schedule I poisons.

Registered Sellers may only sell Part II poisons in pre-packed containers and sales must be made on the registered premises.

Certain Part II poisons may be sold only by Registered Sellers if the poison is in a specified form, and some of these poisons may be sold only to persons engaged in the trade or business of agriculture, horticulture or forestry and for the purpose of that trade or business. Apart from these matters, the requirements for the sale of Part II poisons are substantially the same for Registered Sellers as for persons lawfully conducting retail pharmacy businesses.

6.1 POISONS SCHEDULES

The Poisons Regulations (NI) apply or relax the restrictions imposed by the Order in particular circumstances.

There are 8 schedules to the Regulations and they are described briefly (more detailed reference is made to some of them later):

Schedule 1: A list of poisons to which apply special restrictions relating to storage, conditions of sale and keeping of records of sales. The restrictions do not apply to articles that contain barium carbonate, or to, alpha-chloralose or zinc phosphide and are prepared for the destruction of rats and mice.

Schedule 4: A list of articles exempted from control as poisons. There are two groups. Group 1 comprises classes of articles that contain poisons but are totally exempt, e.g., builders' materials. Group 2 lists exemptions for certain poisons when in specified articles or substances, e.g., sulphuric acid in accumulators.

Schedule 5: Some Part II poisons may be sold by Registered Sellers only in certain forms. The details are given in this schedule, which also specifies certain poisons that may be sold by Registered Sellers only to persons engaged in the trade or business of agriculture, horticulture or forestry and for the purpose of that trade or business. In any other circumstances the sale of Schedule 5 poisons is restricted to pharmacies.

Schedule 8: Form of application for inclusion in District Council's Register of Sellers of Part II poisons.

Schedule 9: Form of the register of Registered Sellers of Part II poisons kept by a District Council.

Schedule 10: Form of certificate for the purchase of a poison (see Figure 1).

Schedule 11: Form of entry to be made in poisons book on sale of Schedule 1 poison.

Schedule 12: Restriction of sale and supply of strychnine and other substances. Forms of authority required for certain of these poisons.

Schedules 2, 3, 6 and 7 were deleted by the Poisons (Amendment) Regulations (NI) 1985.

6.2 SALES OF POISONS

Containers for poisons

Substances in the poisons list are subject to the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (SR 2009 No 238) and must be supplied in an appropriate container.

The container of any poison must be impervious to the poison and sufficiently stout to prevent leakage arising from the ordinary risks of handling and transport. The outer surface of a bottle, if of no greater capacity than 1.14 litres, used for the sale or supply of a liquid poison must be fluted vertically with ribs or grooves recognisable by touch. This requirement applies to bottles made of any material. It does not apply to the sale or supply of poisons to be exported to purchasers outside the United Kingdom, or the sale or supply to a person or institution concerned with scientific education or research or chemical analysis, for the purpose of that education or research or analysis.

Pharmacists should refer to the requirements of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 (SR 2009 No 238) with respect to containers for poisons.

Labelling of poisons

Substances in the Poisons List Confirmation Order are subject to the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009 and must be labelled accordingly.

The particulars for labelling must be in English and indelibly marked on the container or on a label securely fixed to the container. No substance may be supplied unless it is in a container that is clearly labelled with the following particulars:

- (a) the name of the substance or the trade name if it is a preparation;
- (b) the name and address, including telephone number, of the supplier;
- (c) the indication of a general nature of risk and the symbol(s) specified for the general indications of risk;
 - (a) the risk phrases; and
 - (b) the safety phrases.

Each substance is classified in the approved list as to its general nature of risk, its particular risk and the indication of safety precautions with which the container must be labelled. The approved list is voluminous and anyone seeking to supply such substances should seek advice from the Pharmaceutical Branch of the DHSSPS.

Label: Requirements are set out in Regulations 14 to 19 of the Poisons Regulations (NI) 1983. See also CHIP Requirements.

Container: Requirements are set out in Regulations 10(1)(a) and 20 of the above Regulations. See also CHIP requirements.

Sales of Schedule 1 poisons

For requirements concerning containers and labelling see above.

Knowledge of the purchaser

The purchaser of a Schedule 1 poison must be either:

- (a) certified in writing in the prescribed manner by a householder to be a person to whom the poison may properly be sold (see Figure 1). If the householder is not known to the seller to be a responsible person of good character, the certificate must be endorsed by a police officer in charge of a police station. It must be retained by the seller; or,
- (b) known by the seller, or by a pharmacist employed by him at the premises where the sale is effected, to be a person to whom the poison may properly be sold.

If the purchaser is known by the person in charge of the premises on which the poison is sold, or of the department of the business in which the sale is effected, then the requirement as to knowledge of the purchaser by the seller is deemed to be satisfied in the case of (a) sales made by Registered Sellers of Part II poisons, and (b) sales exempted by Section 6 of the Order.

The requirements as to knowledge of the purchaser, entry in the Poisons Book and signature (or signed order) by the purchaser do not apply to:

- (a) the sale of poisons to be exported to purchasers outside the United Kingdom;
- (b) the sale of any article by its manufacturer or by a person carrying on a business in the course of which poisons are regularly sold by way of wholesale dealing, if
 - i the article is sold to a person carrying on a business in the course of which poisons are sold or regularly used in the manufacture of other articles; and
 - ii the seller is reasonably satisfied that the purchaser requires the article for the purpose of that business.

The requirements that apply to the sale of Schedule 1 poisons apply also to the supply of such poisons in the form of commercial samples. The requirement that the person supplied must be known to the seller must be satisfied for the supply of commercial samples, if the person to be supplied is known by the person in charge of the department of the business through which the sale is made.

Records

The seller must not deliver a Schedule 1 poison until he has made the required entry in the Poison Book and the purchaser has signed it. The particulars to be recorded are:

- (a) the date of the sale;
- (b) the name and address of the purchaser;
- (c) the name and address of the householder, if any, by whom certificate was given; and the date of the certificate
- (d) name and quantity of poison;
- (e) the purpose for which it is stated by the purchaser to be required;
- (f) the business, trade or occupation of the purchaser.

Entries in the Poisons Book must be made in the manner prescribed in the Poisons Regulations. The book must be retained for two years from the date on which the last entry was made.

A signed order may be accepted in lieu of the purchaser's signature in the circumstances described below.

The Regulations require that any authority or certificate, relating to the supply of a specific poison, must be retained by the seller. The authority or certificate must be retained for at least two years.

Signed orders

A signed order in writing may be accepted from a person who requires a Schedule 1 poison for the purpose of his trade, business or profession. The seller must be reasonably satisfied that the purchaser carries on the trade, business or profession stated, and that the signature is genuine. In addition to the signature of the purchaser the order must state:

- (a) his name and address;
- (b) his trade, business or profession;
- (c) total quantity to be purchased;
- (d) the purpose for which the poison is required.

A signed order is required to be dated. The entry made in the Poisons Book before delivery of the poison must be dated. The date of the signed order and the words "signed order" must be recorded in place of the signature. The entry in the register, must be identified by a reference number. In an emergency the seller may deliver the poison on receiving an undertaking that a signed order will be furnished within the next 72 hours. Failure to comply with an undertaking, or the making of false statements to obtain a Schedule 1 poison without a signed order, are contraventions of the Poisons Regulations.

Schedule 1 Poisons subject to special restrictions

Some Schedule 1 poisons are subject to special restrictions on sale or supply. They may only be sold

- (a) by way of wholesale dealing,
- (b) for export to purchasers outside the United Kingdom, or
- (c) to persons or institutions concerned with scientific education or research or chemical analysis for the purpose of that education, research or analysis.

Sale or supply of these poisons is also permitted in the circumstances indicated below:

- (1) Strychnine may be sold or supplied: in Northern Ireland in accordance with articles 5 and 6 of the Poisons (NI) Order 1976 as extended by Regulation 6 of the Poison Regulations (NI) 1983.

NB. Since July 1992, the sale or supply of strychnine in Northern Ireland to a person for the purpose of killing foxes has been banned. Strychnine can now only be supplied in special circumstances to an officer of DOE for the purpose of killing foxes in an infected area as laid down in the Rabies (Control) Order.

Strychnine was previously available in England and Wales for the purpose of killing moles. Since 1st September 2006 strychnine no longer has approval for purchase or use for mole control from the Pesticides Safety Directorate (PSD).

- (2) Fluoroacetic Acid, its salts or fluoroacetamide may be sold to a person producing a certificate, in form "A" or form "B" as provided in Schedule 12, which has been issued within Regulations.
- (3) Restrictions on the sale and supply of:
 - a. Thallium and its salts
 - b. Zinc phosphide
 - c. Sodium arsenites or potassium arsenitesare laid down in the relevant sections of the Poisons Regulations (Northern Ireland) Order 1983 SR No. 201, article 12 and Schedule 12.

Storage of Schedule 1 poisons

Schedule 1 poisons in any retail shop, or premises used in connection with such a shop, must be stored in one of the following ways:

- (a) in a cupboard or drawer reserved solely for the storage of poisons; or
- (b) in a part of the premises that is partitioned off or otherwise separate from the remainder of the premises and to which customers are not permitted to have access; or
- (c) on a shelf reserved solely for the storage of poisons, and no food is kept directly under the shelf.

If the poison is to be used in agriculture, horticulture or forestry then:

- (a) it must not be stored on any shelf or any part of the premises where food is kept; and
- (b) it may only be stored in a cupboard or drawer that is reserved for poisons used in agriculture, horticulture or forestry.

Sales exempted by Section 6

Section 6 of the Poisons (NI) Order 1976 exempts certain categories of sales of poisons from the provisions of the Order, except as provided by the Poisons Regulations. The principal effect is that exempted transactions in any Part I poison may be made without the supervision of a pharmacist, provided the sales are not made by a shopkeeper on premises connected with his retail business. The requirements as to signed orders and Poisons Book records in respect of Schedule 1 poisons also apply. The exempted categories are:

- (1) Sales of poisons by way of wholesale dealing, that is, sales made to a person who buys for the purpose of selling again.
- (2) Sales of poisons to be exported to persons outside Northern Ireland.
- (3) The sale of an article to a duly qualified medical practitioner, registered dentist, registered veterinary surgeon or registered veterinary practitioner for the purpose of his profession.
- (4) The sale of an article for use in connection with any hospital infirmary or dispensary or similar institution maintained by any public authority or out of any public funds or by a charity or by voluntary subscriptions.
- (5) 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 purchasers in their trade or business to:
 - (a) a government department or an officer of the Crown requiring the article for the public service, or any local authority requiring the article in connection with the exercise of its statutory powers;
 - (b) a person or institution concerned with scientific education or research, if the article is required for the purposes of that education or research;
 - (c) a person who requires the article 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;
 - (d) a person who requires the article for the purpose of his trade or business. A person can be said to be carrying on a business if he engages in full-time or part-time commercial activity with a view to profit. Eg A sale of cyanide to a commercial fruit grower for killing wasps would be a "trade or business" sale, but a sale for the same purpose to a householder for garden use would not. Sales exempted by Section 6 are the only sales of cyanides that are lawful, so that a sale to a householder would be unlawful.

Wholesale dealing to a shopkeeper

A person who sells a Part I poison to a shopkeeper by way of wholesale dealing must have reasonable grounds for believing that the purchaser is a person lawfully conducting a retail pharmacy business. If not, then the wholesaler must obtain a statement signed by the purchaser, or person authorised by him, to the effect that the purchaser does not intend to sell the poison on any premises used for or in connection with his retail business. "Sale by way of wholesale dealing" means sale to a person who buys for the purpose of selling again.

SCHEDULE 10

Regulation 26

Certificate for the purchase of a non-medicinal poison

For the purpose of Article 5(2)(a)(i) of the Poisons (Northern Ireland) Order 1976.

I, the undersigned, a householder occupying (a).....
hereby certify from my knowledge of (b).....
of (a).....
that he is a person to whom (c).....may properly be supplied.

I further certify that (d)
is the signature of the said (b)

.....
Signature of householder giving certificate

Date.....

- (a) Insert full postal address.
- (b) Insert full name of intending purchaser.
- (c) Insert name of poison.
- (d) Intending purchaser to sign his name here.

Endorsement required by regulation 26 of the Poisons Regulations (Northern Ireland) 1983 to be made by a police officer in charge of a police station when, but only when, the householder giving the certificate is not known to the seller of the poison to be a responsible person of good character.

I hereby certify that in so far as is known to the police of the district in which
*.....resides he is a responsible person of good character.

Signature of Police Officer
Rank

In charge of Police Station at
Date

Office Stamp of
Police Station

*Insert full name of householder giving the certificate.

Figure 1 Certificate for the purchase of a non-medicinal poison

