Medical and Dental Act 10 of 2004

REGULATIONS MADE IN TERMS OF

section 65(2)

Regulations regarding the Labelling and Sale of Poisons

Government Notice 2000 of 1966

(OG 2753)

came into force on date of publication: 15 December 1966

The Regulations regarding the Labelling and Sale of Poisons were originally made in terms of section 60 of the Medical, Dental and Pharmacy Act 13 of 1928, which was repealed by the Medical and Dental Act 10 of 2004. Pursuant to section 65(2) of the Medical and Dental Act 10 of 2004, the Regulations regarding the Labelling and Sale of Poisons are deemed to have been made under that Act. The Government Notice states that the regulations have been passed after consultation with the South African Medical and Dental Council and the South African Pharmacy Board.

ARRANGEMENT OF REGULATIONS

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ANNEXURE

FORM OF CERTIFICATE UNDER SECTION FIFTY-ONE OF ACT No. 13 OF 1928, AS AMENDED BY ACT No. 5 OF 1937
Definitions

1. In these regulations “the Act” means the Medical, Dental and Pharmacy Act, No. 13 of 1928, as amended; “the Council” means the South African Medical and Dental Council; “the Board” means the South African Pharmacy Board; “general dealer” means a person licensed as such under Act No. 44 of 1962, as amended, or, in the Mandated Territory of South-West Africa, under Administrator’s Proclamation No. 21 of 1921.

Labelling of Poisons

2. (1) No persons shall import into the Republic, or keep or expose for sale, or supply or sell, whether wholesale or in bulk or by retail, any poison or preparation containing poison unless the container or outside wrapper, if any, bears a label stating whether the poison is in Division I or in Division II of the Fourth Schedule to the Act.

(2) If the container or outside wrapper of any substance, which has been imported, supplied or sold or kept or exposed for sale, is labelled as aforesaid, that substance shall prima facie be presumed to be a poison indicated by the label.

Sale of Poison by Co-operative Societies or Companies or by General Dealers

3. (1) The holder of a certificate granted under section fifty-one of the Act, may sell any poison or preparation containing poison which is specified in that certificate, if it is one of the undermentioned poisons or preparations, that is to say -

[The word “preparations” is misspelt in the Official Gazette, as reproduced above.]

(a) A poison to be used exclusively in agriculture or horticulture, or as a dip for cattle, sheep or other animals, or to be used exclusively for the destruction of vermin, insects, plants, fungi, or bacteria, or for the preservation of wood, these being -

[Inconsistent use of capitalisation in the Official Gazette, as reproduced above.]

all cattle and sheep dips;
all weed killers;
arsenite of soda;
arсенate of soda;
arсенate of lead;
Paris green;
tobacco extracts;
all wood preservatives;
fertilisers;
all disinfectants containing 3 per cent or more of carbolic acid (phenol) of cresylic acid (cresol) or of a mixture of these substances or of their derivatives (except
“Lysol” and similar preparations under whatever name they may be described or sold;

vermin killer other than those containing strychnine and its salts, perchloride of mercury, hydrocyanic acid or cyanides;

phosphorous compounds registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feeds and Remedies Act, 1947 (Act No. 36 of 1947), these being -

Diethylparanitrophenyl thiophosphate or O,O-diethyl O-p-nitrophenyl thiophosphate.

O,O-dimethyl-S-(4-oxo-1, 2, 3-benzotriazinyl-3-methyl) phosphorodithioate.

2-carbomethoxy-1-methylvinyl dimethyl phosphate.

Diethylthiophosphate of ethyl-mercaptopropanol.

Bis-dimethylaminophosphonous anhydride.

Hexaethyl pyrophosphate.

Tetraethyl pyrophosphate.

O,O-diethyl S-[(ethylthio) methyl] phosphorodithioate.

O,O-diethyl S-p-chlorophenyl thiomethyl phosphorodithioate.

Hexachloro-epoxy-octahydro-endo-endo-dimethanonaphtalene.

1, 3, 4, 5, 6, 7, 8, 8-Octachloro-1, 3, 3a, 4, 7, 7a-hexahydro- 4, 7-methanoisobenzofuran.

Mercuric organic compounds, preparations and admixtures thereof registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feeds and Remedies Act, 1947 (Act No. 36 of 1947).

[b] Inconsistent use of capitalisation and punctuation in the Official Gazette, as reproduced above.^[1][

(b) a poison or a preparation containing poison to be used for veterinary purposes, such as blistering ointments, condition powders and worm remedies, and all stock remedies containing poison within the meaning of the Act, and registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feed and Remedies Act, No. 36 of 1947;

(c) a poisonous substance to be used exclusively for the cleansing of clothing and similar purposes;

(d) a “patent”, “proprietary” or “Dutch” medicine containing poison, these being - all homoeopathic medicines;
all “Dutch” medicines;

Asthma Cigarettes and powders which are used for inhalation after burning;

headache remedies containing acetylsalicylic acid or phenazone;

aperient and laxative pills and tablets (except those containing nux vomica or strychnine and its salts in any proportion);

all cough and cold remedies (except those containing a habit-forming drug in any proportion);

applications for corns and bunions;

ointments or creams containing red or white precipitate;

nerve remedies and tonic preparations (except those containing nux vomica or strychnine and its salts in any proportion);

evapo-cresolene.

(2) A certificate granted under section fifty-one of the Act, shall authorize the sale or keeping for sale such poisons and preparations only at the address mentioned in the certificate and under the personal supervision of the person mentioned therein and, in the case of a co-operative agricultural society or company, or co-operative trading society, shall authorize the sale of such poisons or preparations only to members of such society or company.

(3) Such certificate shall not authorize the sale of any preparation mentioned in paragraph (d) of subregulation (1) except by a general dealer who carries on business without a radius of five miles of any municipality, town or village if therein a chemist and druggist is carrying on business, and provided the said preparation does not contain any poison included in Division I of the Fourth Schedule to the Act or a habit-forming drug included in the Fifth Schedule to the Act.

Inspections

4. (1) Any person authorized thereto, in writing, by the Secretary for Health or by the magistrate of the district or by an officer of the Department of Customs and Excise or by any member of the police force of or above the rank of sergeant, or such an officer or member himself, may make inspections in connection with the importation, manufacture, conveyance, keeping, storage, packing, dispensing, labelling, colouring, flavouring, sale, supply or use of poisons, and may search any premises or vehicles and may require any person found in possession of a poison to produce for inspection any correspondence or document having any bearing on the manner in which he came into possession of such poison, and may further require such person to sell, supply, or permit the taking of a sample of such poison. Any person who fails to comply with any such requirements shall be guilty of an offence.

(2) It shall be the duty of the Council or Board to bring to the notice of the Minister any case in which it is considered that an inspection should be made under this regulation.

Sale of Poisons by “Wholesale Dealing” or “in Bulk”

5. (1) For the purposes of Chapter V of the Act relating to the sale of poisons -
“wholesale dealing” shall be deemed to mean sale or supply for the purposes of resale and not for personal consumption or use by the purchaser;

“in bulk” shall be deemed to mean sale or supply of poisons or poisonous substances for mining, industrial, agricultural, manufacturing or redistributing purposes, in original containers, as issued by the manufacturer, holding not less than 14 lb. by weight for solids, and not less than 5 gallons by measure for liquids.

(2) No importer, dealer, manufacturer or wholesale distributor as referred to in section fifty-three of the Act shall sell any of the poisons or preparations referred to in section fifty-one of the Act, as amended, to any other dealer for resale by retail unless he is furnished with the date and number of the certificate issued by the magistrate authorizing such retail dealer to keep for sale and sell such poison or preparation containing poison.

Penalties

6. Any person who contravenes or fails to comply with any provision of these regulations, or any requirement or condition mentioned in any certificate issued thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

Form of Certificate

7. The form of certificate to be issued by magistrates under section fifty-one of the Act, as amended, shall be as set out in Annexure hereto.

ANNEXURE

FORM OF CERTIFICATE UNDER SECTION FIFTY-ONE OF ACT No. 13 OF 1928, AS AMENDED BY ACT No. 5 OF 1937

SALE OF CERTAIN POISONS BY CO-OPERATIVE SOCIETIES OR COMPANIES OR BY GENERAL DEALERS

Certificate No ................................................................. under section fifty-one of the Medical, Dental and Pharmacy Act, No. 13 of 1928, as amended by Act No. 5 of 1937.

I certify that ................................................................. of ................................................................. is hereby authorized, subject to the provisions of the Medical, Dental and Pharmacy Act, 1928, as amended, and the regulations made thereunder to sell the poisons or preparations containing poison (except such as are deleted) specified in the lists hereunder lettered (1) ................................................................. : Provided that the sale is effected only at (2) ................................................................. by or under the supervision of ................................................................., that this certificate does not authorize the sale of any preparation mentioned in list “D” hereunder if it contains any poison included in Division I of the Fourth Schedule to the above-mentioned Act or a habit-forming drug included in the Fifth Schedule to that Act, and that if the holder of this certificate is a co-operative agricultural society or company or a co-operative trading society this certificate authorizes a sale only to a member of that society or company.

The validity of this certificate expires on the 31st December, 19...................... unless the certificate is cancelled earlier under the provisions of subsection (6) of section fifty-one of the above-mentioned Act.
Place .................................................................
Date ................................................................. .................................................................
Magistrate.

(1) Here state the letter “A”, “B”, “C” or “D” as is applicable denoting the lists hereunder in which are specified the poisons and preparations the sale whereof is authorized by this certificate. Any particular preparation or substance embodied in the list or lists so denoted, the sale whereof is not authorized, must be deleted therefrom.

(2) Here specify carefully the locality of the shop, store or other place to which the certificate refers. A separate certificate is required for each shop, store or place at which poisons or preparations containing poison are kept for sale or sold by a general dealer.

POISONS AND PREPARATIONS CONTAINING POISON REFERRED TO IN THIS CERTIFICATE.

[Read carefully note (1) on the certificate form regarding the deletion from the following list or lists as therein denoted of any particular preparation or substance, the sale whereof is not authorized.]

List “A”.
A poison to be used exclusively in agriculture or horticulture, or as a dip for cattle, sheep, or other animals, or to be used exclusively for the destruction of vermin, insects, plants, fungi, or bacteria, or for the preservation of wood, these being -

- all cattle and sheep dips;
- all weed killers;
- arsenite of soda;
- arsenate of soda;
- arsenate of lead;
- Paris green;
- tobacco extracts;
- all wood preservatives;
- fertilisers;
- all disinfectants containing 3 per cent or more of carbolic acid (phenol) of cresylic acid (cresol) or of a mixture of these substances or of their derivatives (except “Lysol” and similar preparations under whatever name they may be described or sold);
- vermin killer other than those containing strychnine and its salts, perchloride of mercury, hydrocyanic acid or cyanides;
- phosphorous compounds registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feeds and Remedies Act, 1947 (Act No. 36 of 1947), these being -
  - Diethylparanitrophenyl thiophosphate or O,O-diethyl O-p-nitrophenyl thiophosphate;
  - O,O-dimethyl-S-(4-oxo-l, 2, 3-benzotriazi nyl-3-methyl) phosphorodithioate;
  - 2-carbomethoxy-1-methylvinyl dimethyl phosphate.
  - Diethylthiophosphate of ethyl-mercaptopropanol.
  - Bis-dimethylaminophosphonous anhydride;
  - Hexaethyl pyrophosphate;
  - Tetraethyl pyrophosphate;
  - O,O-diethyl S-[ethythio] methyl phosphorodithioate;
  - O,O-diethyl S-p-chlorophenyl thiomethyl phosphorodithioate;
  - Hexachloro-epoxy-octahydro-endo-endo-dimethanonaphtalamene;
  - 1, 3, 4, 5, 6, 7, 8, 8-Octachloro-1, 3, 3a, 4, 7, 7a-hexahydro-4, 7-methanoisobenzofuran;
- Mercuric organic compounds, preparations and admixtures thereof registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feeds and Remedies Act, 1947 (Act No. 36 of 1947).
List “B”.

A poison or a preparation containing poison to be used for veterinary purposes, such as blistering ointments, condition powders and worm remedies, and all stock remedies containing poison within the meaning of the Act, and registered with the Department of Agricultural Technical Services in terms of the Fertilizers, Farm Feeds and Remedies Act, No. 36 of 1947.

List “C”.

A poisonous substance to be used exclusively for the cleansing of clothing and similar purposes.

List “D”.

[Note carefully that in terms of regulation No. 3 (3) a certificate shall not be granted for the sale of any preparation in this list except to a general dealer who carries on business without a radius of five miles of any municipality, town or village if therein a chemist and druggist is carrying on business.]

A “patent”, “proprietary” or “Dutch” medicine containing poison, these being -
all homoeopathic medicines;
all “Dutch” medicines;
all asthma cigarettes and powders which are used for inhalation after burning;
headache remedies containing acetanilide or phenazone;
aperient and laxative pills and tablets (except those containing nux vomica or strychnine and its salts in any proportion);
all cough and cold remedies (except those containing a habit-forming drug in any proportion);
applications for corns and bunions;
ointments or creams containing red or white precipitate;
nerve remedies and tonic preparations (except those containing nux vomica or strychnine and its salts in any proportion);
vapo-cresolene.