

SALE OF DRUGS ACT

(CHAPTER 282)

Short title.

1. This Act may be cited as the Sale of Drugs Act.

12/73.

Interpretation.

2. In this Act, unless there is something repugnant in the subject-matter or context —

"analyst" means an analyst appointed under this Act;

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"Authority" means the Health Sciences Authority established under the Health Sciences Authority Act 2001;

"Chief Executive of the Authority" means the person appointed under section 15 of the Health Sciences Authority Act 2001 to be the Chief Executive of the Authority;

"drug" means any substance or mixture of substances used by man as a medicine whether internally or externally, and includes anaesthetics, but does not include such substances or mixtures of substances when sold otherwise than for medicinal purposes, and also includes face powders, dusting powders and toilet preparations whether or not advertised or described as a drug and for whatever purpose sold;

"import" , with its grammatical variations and cognate expressions, means to bring or cause to be brought into Singapore by land, water or air from any place which is outside Singapore but does not include the bringing into Singapore by water or air of any goods which it is proved to be intended to be taken out of Singapore on the same vessel or aircraft on which they were brought into Singapore without any landing or transhipment within Singapore;

"importer" includes any person who, whether as owner, consignee, agent or broker, is in possession of, or is in anyway entitled to the custody or control of, the article;

"officer" means the Chief Executive of the Authority and includes any person who is appointed by him to exercise any of the powers of an officer under this Act;
"package" includes every means by which goods for carriage or for sale are cased, covered, enclosed, contained or packed;
"poison" means any article deemed to be a poison within the meaning of the Poisons Act;

Cap. 234.

"sale" or "sell" includes barter and exchange and also includes offering or attempting to sell or causing or allowing to be sold or exposing for sale or receiving or sending or delivering for sale or having in possession for sale or having in possession any drug knowing that the same is likely to be sold or offered or exposed for sale, and refers only to sale for human consumption or use.

ANALYSTS AND OFFICERS

Appointment of analysts and officers.

3. —(1) The Chief Executive of the Authority may appoint a sufficient number of analysts and officers under this Act and make rules for the conduct of their duties.
(2) Such analysts and officers shall be deemed to be public servants within the meaning of the Penal Code.

Cap. 224.

Power of officers to enter, etc.

4. —(1) Any officer may —
(a) at all reasonable times enter and inspect any place where he has reason to believe that there is any drug intended for sale;
(b) mark, seal or otherwise secure, weigh, count or measure any drug the sale, preparation or manufacture of which is or appears to be contrary to this Act;
(c) seize any drug wherever found which is or appears to be unwholesome or deleterious to health;
(d) destroy any drug wherever found which is decayed or putrefied;
(e) inspect any drug wherever found which he has reasonable ground for believing to be intended for sale.

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(2) Any person claiming anything seized under this section may within 48 hours after the seizure complain thereof to a Magistrate's Court, and the complaint may be heard and determined by the Court, which may either confirm or disallow the seizure wholly or in part and may order the article seized to be restored.

(3) If within 48 hours after the seizure no complaint has been made, or if the seizure is confirmed, the article seized shall be forfeited to the Authority and shall be destroyed or otherwise disposed of so as to prevent its being used for human consumption.

(4) Where the seizure of any drug is made under subsection (1) (c), the officer making the seizure shall forthwith give notice in writing of the seizure, in the form set out in the Schedule, to the owner or to the consignor or consignee or to the agent of the owner of the thing seized, if his name and address are attached thereto or are otherwise known to the officer and the address is in Singapore.

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(5) Any person who obstructs any officer in the exercise of his powers under this section shall be guilty of an offence.

Power to demand, select and take samples.

5. —(1) On payment or tender to any person selling or making any drug or to his agent or employee of the current market value of the samples in this section referred to, any officer may at any place demand and select and take or obtain samples of the drug for the purpose of analysis.

(2) Any such officer may require that person or his agent or employee to show and permit the inspection of the package in which the drug is at the time kept, and may take therefrom the samples demanded.

(3) Where any drug is kept for retail sale in an unopened package, no person shall be required by any officer to sell less than the whole of the contents of such package.

Offence.

(4) Any person who refuses or neglects to comply with any demand or requisition made by an officer in pursuance of this section shall be guilty of an offence.

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Any person may have sample analysed.

6. Any person other than the seller may, on payment of the prescribed fee, together with the cost of the sample, require any officer to purchase a sample of any drug and submit the same for analysis.

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*Section 6 in the 1970 Edition was repealed by Act 12/73.

Samples, how taken.

7. —(1) When it is intended to submit any sample for analysis, the officer purchasing or otherwise procuring it shall, before or forthwith after procuring it, inform the seller or his agent selling the article or the person having charge of the article that he intends to have the sample analysed by an analyst.

(2) Such officer shall thereupon divide the sample into 3 parts, and shall mark and seal or fasten up in such manner as its nature permits each such part, and shall offer one of those parts to the seller or his agent or the person having charge of the article.

(3) Such officer shall subsequently deliver either personally or by registered letter another of those parts to an analyst, and shall retain the third of those parts.

(4) Where a sample consists of a substance contained in unopened containers or packages and the division into parts of the substance contained in those containers or packages is not reasonably practicable or might affect the composition or impede the proper analysis of the contents, subsection (2) shall be deemed to be complied with if the officer procuring the sample divides the containers or packages into the requisite number of lots and deals with each lot as if it were a part in the manner provided by this section; and references in this Act to a part of a sample shall be construed accordingly.

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Certificate of analyst.

8. —(1) The certificate of the analyst shall be in the prescribed form.

(2) Where any method of analysis has been prescribed any analyst either for the prosecution or defence shall, in his certificate of analysis, declare that he has followed the prescribed method in his analysis.

(3) A copy of the result of any analysis of any drug procured by an officer may be obtained from the analyst by the person from whom the article so analysed was purchased or obtained, on payment of such fee as may be prescribed.

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Offence.

(4) No such copy of an analysis shall be used as an advertisement, and any person who so uses it shall be guilty of an offence.

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Power to call for information.

9. —(1) If, in the opinion of an officer, there is reasonable ground for suspecting that any person is in possession of any drug or other substance for the purpose of sale or of manufacturing or preparing the drug for sale in breach of this Act, he may require that person to produce for his inspection or to produce to any specially authorised officer any books or documents dealing with the reception, possession, purchase, sale or delivery of any such drug or other substance.

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(2) Any of the officers mentioned in subsection (1) may make or cause to be made copies of or extracts from any such books or documents.

(3) Such copies or extracts certified as such by any specially authorised officer shall, unless the contrary is proved, be deemed to be true and correct copies or extracts.

(4) Any person, who refuses or neglects to comply with any requisition made in pursuance of this section, shall be guilty of an offence.

Penalty.

(5) Any officer who does not maintain the secrecy of all matters which come to his knowledge in the performance of his official duties under this section, or who communicates any such matter to any person whomsoever except for the purpose of carrying into effect this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

OFFENCES AND PENALTIES

Offences.

10. —(1) Any person commits an offence who sells —

- (a) any adulterated drug without fully informing the purchaser at the time of the sale of the nature of the adulteration;
- (b) any drug in any package which bears or has attached thereto any false or misleading statement, word, brand, label or mark purporting to indicate the nature, quality, strength, purity, composition, weight, origin, age or proportion of the article contained in the package or of any ingredient thereof;
- (c) any drug containing any substance the addition of which is prohibited by regulations made under this Act;
- (d) any drug containing a greater proportion of any substance than is permitted by regulations made under this Act;
- (e) any drug for internal use which contains methyl alcohol, isopropyl alcohol or denatured alcohol:

Provided that it shall not be an offence to sell concentrated flavouring essences with an isopropyl alcohol base where these have been submitted to the Director, Scientific Services for examination and have been accepted by him as concentrated essence;

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- (f) to the prejudice of the purchaser any drug which is not of the nature or not of the substance or not of the quality of the drug demanded by the purchaser.

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(2) Where regulations made under this Act contain provisions prescribing the composition of, or prohibiting or restricting the addition of any substance to, any drug, a purchaser of the drug shall, unless the contrary is proved, be deemed for the purposes of this section to have demanded a drug complying with the provisions of such regulations.

(3) In proceedings under this section it shall not be a defence that the purchaser bought for analysis and therefore was not prejudiced.

Penalty.

(4) Any person who commits any offence mentioned in this section shall for the first offence be liable on conviction to a fine not exceeding \$1,000, and for any subsequent offence under this section, whether of the same or a different nature, to a fine not exceeding \$4,000:

Provided that if any such offence is committed by the personal act, default or culpable negligence of the offender, the offender shall be liable on conviction to a fine not exceeding \$4,000 or to 3 months' imprisonment although it may be a first offence.

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Interference with official marks.

11. Any person who without authority opens, alters, breaks, removes or erases any mark, fastening or seal placed by any officer in pursuance of this Act upon any drug or upon any package, place, door or opening containing or affording access to any drug, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500.

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General penalty.

12. Any person who commits an offence under this Act or a breach of any regulations made thereunder for which a penalty is not expressly provided shall be liable on conviction to a fine not exceeding \$400.

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Forfeiture of drugs upon conviction.

13. —(1) In the case of any conviction under this Act, the Magistrate's Court may order that any drug to which the conviction relates and any similar drug found on the defendant's premises or in his possession at the time of the commission of the offence, together with all packages or vessels containing the drug, shall be forfeited to the Authority.

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(2) Everything so forfeited to the Authority shall be disposed of as the Chief Executive of the Authority directs.

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Notification of conviction in newspapers.

14. A notification of the name and occupation of any person who has been convicted of any offence under this Act, together with his place or places of business, the nature of the offence and the fine, forfeiture or other penalty inflicted shall, if the Magistrate's Court so orders, be published by the Deputy Director of Medical Services (Health) in any newspaper circulating in Singapore or in any part thereof.

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PRESUMPTIONS OF LAW

Adulteration.

15. For the purposes of this Act any drug shall be deemed to be adulterated if —
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- (a) it contains or is mixed or diluted with any substance which diminishes in any manner its nutritive or other beneficial properties as compared with such article in a pure and normal state and in an undeteriorated and sound condition, or which in any other manner operates or may operate to the prejudice or disadvantage of the purchaser or consumer;
- (b) any substance or ingredient has been extracted or omitted therefrom, and by reason of such extraction or omission the nutritive or other beneficial properties of the article as sold are less than those of the article in its pure and normal state or the purchaser or consumer is or may be in any manner prejudiced;
- (c) it contains or is mixed or diluted with any substance of lower commercial value than such article in a pure and normal state and in an undeteriorated and sound condition;
- (d) it does not comply with the prescribed standard; or
- (e) there is added to it any substance or if there is abstracted from it any constituent affecting injuriously the quality, constitution or potency of the drug when used in the proper manner.

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Sale by agent or employee.

16. For the purposes of this Act —

- (a) every person shall be deemed to sell any drug who sells it either on his own account or as the agent or employee of any other person; and
- (b) in the case of any sale by an agent or employee, his principal or employer shall be under the same liability as if he had effected the sale personally.

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*Section 17 in the 1970 Edition was repealed by Act 12/73.

Presumptions as to sale for human consumption or use.

17. —(1) When any drug is sold or exposed or offered for sale, it shall, unless the contrary is proved, be deemed to be sold or exposed or offered for sale for human consumption or use.

(2) The purchase and sale of a sample of any drug under this Act for the purpose of analysis shall be deemed to be a purchase and sale of the drug for human consumption or use, unless the seller proves that the bulk from which the sample was taken was not offered, exposed or intended for sale for human consumption or use.

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(3) For the purposes of this Act every person shall be deemed to sell or to intend to sell any drug if he sells or intends to sell for human consumption or use any article of which such drug is a constituent.

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LEGAL PROCEEDINGS AND EVIDENCE

Proceedings for offences.

18. —(1) All proceedings in respect of an offence under this Act or of a breach of any regulations made thereunder shall be taken in a summary manner before a Magistrate's Court.

(2) The summons in any such proceedings shall not be made returnable in less than 14 days from the day on which it is served.

(3) A copy of the analyst's certificate, if any, on which the prosecution is based shall be served with the summons.

(4) When any drug has been purchased or procured from any person for test purposes, no proceedings in respect of the sale thereof or of any offence under this Act shall be instituted after the expiration of 28 days from the time of purchasing or procuring the same.

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No defence that offence not wilfully committed.

19. In a prosecution for selling any drug contrary to this Act or any regulations made thereunder, it shall be no defence that the defendant did not act wilfully, unless he also proves that he took all reasonable steps to ascertain that the sale of the drug would not constitute an offence under this Act or under any regulations made thereunder.

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Reliance on written warranty a good defence.

20. —(1) Subject to this section, it shall be a good defence in any prosecution for an offence under section 10 if the defendant proves that —

(a) he purchased the article sold by him in reliance on a written warranty or other written statement as to the nature of the articles purchased signed by or on behalf of the person from whom the defendant purchased the article;

(b) he had no reason to believe that the article sold did not conform to such warranty or statement; and

(c) if the article had truly conformed to such warranty or statement, the sale of the article by the defendant would not have constituted the offence charged against him.

(2) No warranty or other written statement given or made by a person resident outside Singapore shall be any defence under this section, unless the defendant proves that he had taken reasonable steps to ascertain and did in fact believe in the truth of the matters set forth in such warranty or statement.

(3) No warranty or other written statement shall be any defence in any prosecution, unless the defendant has, within 7 days after service of the summons, delivered to the prosecutor a copy of the warranty or statement with a written notice stating that he intends to rely thereon and specifying the name and address of the person from whom he received it, and has also within the same time sent by registered post a like notice of his intention to that person.

(4) When the defendant is an employee or agent of the person who purchased the article under such a warranty or written statement, he shall be entitled to the benefit of this section in the same manner and to the same extent as his employer or principal would have been, if he had been the defendant; provided that the employee or agent further proves that he had no reason to believe that the article did not conform to the warranty or statement.

Penalty for false warranty.

(5) Any person who in respect of any drug sold by him as principal or agent gives to the purchaser a false warranty in writing shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000, and for any subsequent offence to a fine not exceeding \$4,000, unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

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Analyst's certificate to be prima facie evidence.

21. —(1) The production by the prosecutor of a certificate of analysis purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the defendant requires the analyst to be called as a witness, in which case he shall give notice thereof to the prosecutor not less than 3 clear days before the day on which the summons is returnable.

(2) In like manner the production by the defendant of a certificate of analysis purporting to be under the hand of an analyst shall be sufficient evidence of the facts stated therein, unless the prosecutor requires the analyst to be called as a witness.

(3) A copy of such last-mentioned certificate shall be sent to the prosecutor at least 3 clear days before the day fixed for the hearing of the summons, and, if it is not so sent, the Magistrate's Court may adjourn the hearing on such terms as it thinks proper.

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Court may order independent analysis.

22. When a sample has been dealt with in accordance with section 7, the Magistrate's Court shall, on the request of either party to any proceedings for any offence under this Act, and may, if it thinks fit without such request, order that part of the sample retained by the officer to be submitted to another analyst for analysis.

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Non-disclosure of information.

23. —(1) No prosecutor or witness in any prosecution under this Act shall be compelled to disclose the fact that he received any information or the nature of the information or the name of any person who gave the information.

(2) No officer appearing as a prosecutor or witness shall be compelled to produce any confidential reports or documents made or received by him in his official capacity or to make any statement in relation thereto.

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Recovery of fees and other expenses incidental to prosecution.

24. —(1) When any person is convicted of an offence under this Act, the Magistrate's Court may order that all fees and other expenses incidental to the analysis of any drug in respect of which the conviction is obtained, including an analysis made under section 22, and any other reasonable expenses incurred by the prosecution, shall be paid by the person convicted.

(2) All such fees and expenses shall be recoverable in the same manner as a fine is recoverable.

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Appeal.

25. Any person aggrieved by any sentence or order under this Act passed or made by a Magistrate's Court may appeal therefrom to the High Court.

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Composition of offences

25A. —(1) The Chief Executive or any employee of the Authority authorised by him in writing may, in his discretion, compound any offence under this Act or any regulations made thereunder which is prescribed as a compoundable offence by collecting from the person reasonably suspected of committing an offence a sum not exceeding \$500.

(2) The Minister may make regulations prescribing the offences which may be compounded under this section.

REGULATIONS AND SUPPLEMENTARY PROVISIONS

Power to make regulations.

26. —(1) The Minister may make regulations —

(a) to prescribe the standard of strength, weight, quality or quantity of any drug, or of any ingredient or component part thereof;

(b) to prohibit the addition of any specified thing or of more than the specified quantity or proportion thereof to any drug;

(c) to prohibit any modes of manufacture, preparation or preservation of any drug;

(d) to secure the cleanliness and freedom from contamination of any drug in the course of its manufacture, preparation, storage, packing, carriage, delivery, exposure for sale or sale and to secure the cleanliness of places, receptacles and vehicles used in such manufacture, preparation, storage, packing, carriage, delivery, exposure for sale or sale and for these purposes to require any person to submit to a medical examination;

(e) to prescribe the mode of labelling drugs sold in packages or otherwise, and the matter to be contained or not to be contained in such labels;

(f) to prescribe the method of analysis of any drug and form of certificate of analysis;

- (g) to fix the fees to be paid in respect of the analysis of any drug by an analyst and for any licence or registration issued or effected under this Act and for copies of a certificate of analysis;
- (h) to prohibit or regulate the sale, advertisement for sale, or importation of specified drugs;
- (i) to provide for the licensing and registration of premises used for, and persons engaged or occupied in the manufacture, preparation, storage, packing, carriage, delivery or exposure for sale or sale of any drug, and for these purposes to require photographs of persons so registered or licensed;
- (j) to prescribe fines not exceeding \$1,000 for the breach of any regulations; and
- (k) generally to carry out this Act.

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(2) Any such regulations may be made applicable either to drugs generally or to specified drugs only.

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(3) All regulations made under this Act shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication.

(4) Notwithstanding anything in any regulations made under this section, any person may, at any time within 12 months after the date of the publication in the *Gazette* of such regulations, sell any drug the sale of which is otherwise lawful, if he proves that at that date such drug was part of the existing stock-in-trade in Singapore of any person carrying on business there and that since that date no act has been done whereby the drug fails to conform to the requirements of those regulations.

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(5) For the purposes of subsection (4) any goods purchased before the said date for importation into Singapore shall be deemed to be part of the purchaser's stock-in-trade in Singapore.

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Fees to be paid to Authority

27. All fees, charges and other moneys recovered or collected by an officer or an analyst under this Act or any regulations made thereunder shall be paid to the

Authority.