

South Australia

# **Controlled Substances (Poisons) Variation Regulations 2017**

under the *Controlled Substances Act 1984*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Controlled Substances (Poisons) Variation Regulations 2017*.

### **2—Commencement**

These regulations will come into operation on day on which the *Controlled Substances (Miscellaneous) Amendment Act 2016* comes into operation.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## **Part 2—Variation of *Controlled Substances (Poisons) Regulations 2011***

### **4—Variation of regulation 15—Sale of certain poisons (section 16 of Act)**

Regulation 15(2)—delete subregulation (2) and substitute:

- (2) For the purposes of section 16(4) of the Act, a person who sells S7 poisons must keep records of such matters as are specified in Part 2 section 5.1(1) of the Uniform Poisons Standard.

### **5—Variation of regulation 26—Packaging and labelling of poisons (section 24 of Act)**

Regulation 26(1)(b)—delete "must—" and substitute:

in the case of a package or container for an S2 poison, S3 poison, S4 poison or S8 poison, must—

### **6—Substitution of regulation 27**

Regulation 27—delete the regulation and substitute:

#### **27—Storage of poisons (section 25 of Act)**

For the purposes of section 25 of the Act, the following requirements apply:

- (a) a person must not store a poison in a container that—
  - (i) is normally used for containing food or beverages; or
  - (ii) is similar to a container that is normally used for containing food or beverages;
- (b) a person must not store an S2 poison in premises where such a poison is sold by retail unless—
  - (i) it is stored in a part of the premises to which the public is not permitted access; or
  - (ii) if it is stored in a part of the premises to which the public is permitted access, it—
    - (A) is stored not less than 1.2 metres above floor level; or
    - (B) is enclosed in—
      - a child-resistant package; or
      - a blister pack; or
      - a container approved by the Minister; or
    - (C) is stored in a container that has a capacity of not less than 5 litres; or

- (D) is stored in a container that has a gross weight of not less than 5 kilograms;
- (c) a person must not store an S3 poison or S4 poison in premises where such a poison is sold by retail unless it is stored in a part of the premises to which the public is not permitted access;
- (d) a person must not store an S6 poison or S7 poison in premises where such a poison is sold by retail except in accordance with the requirements of Part 2 section 3.1 of the Uniform Poisons Standard;
- (e) a person must not store a drug of dependence except in accordance with the requirements of the *Code of Practice for the Storage and Transport of Drugs of Dependence*, published by the Department, as in force from time to time.

### **7—Variation of regulation 29—Transport of poisons (section 26 of Act)**

Regulation 29(a)—delete paragraph (a) and substitute:

- (a) transport an S2 poison, S3 poison, S4 poison or S8 poison in a vehicle in which any food, or component of food, for human or animal consumption is being transported unless that poison is carried in a part of the vehicle effectively separated from that part of the vehicle containing the food; or

### **8—Insertion of Part 5A**

After Part 5 insert:

#### **Part 5A—Special provisions relating to certain paints and tinters**

##### **45A—Restrictions on manufacture, sale, supply and use of certain paints and tinters**

- (1) A person must not manufacture, sell, supply or use—
  - (a) a First Group Paint for application to—
    - (i) a roof or any surface to be used for the collection or storage of potable water; or
    - (ii) furniture; or
    - (iii) any fence, wall, post, gate or building (interior or exterior) other than a building which is used exclusively for industrial purposes or mining or any oil terminal; or
    - (iv) any premises used for the manufacture, processing, preparation, packing or serving of products intended for human or animal consumption; or

- (b) a paint or tinter that contains more than 0.1% Lead (the proportion of Lead for the purposes of this regulation being calculated as a percentage of the element present in the non-volatile content of the paint); or
- (c) a paint for application to toys unless the paint complies with the specification for coating materials contained in AS/NZS *ISO 8124.3:2012 Safety of toys Part 3: Migration of certain elements (ISO 8124-03:2010, MOD)*, as in force from time to time; or
- (d) a paint or tinter that contains a pesticide (other than a fungicide, algacide, bactericide or antifouling agent).

Maximum penalty: \$5 000.

- (2) Subregulation (1) applies only in relation to a paint or tinter that contains a poison.
- (3) In this regulation, *First Group Paint, paint, pesticide, tinter* and *toy* have the same respective meanings as in the Uniform Poisons Standard.

## **9—Substitution of regulation 47**

Regulation 47—delete the regulation and substitute:

### **47—Offences relating to sale or supply of poisons**

- (1) A person must not, in any residential premises, or from door-to-door, or in a public place, sell or supply—
  - (a) an S2 poison, S3 poison, S4 poison, S7 poison or S8 poison; or
  - (b) an S5 poison or S6 poison that is not a product sample.

Maximum penalty: \$5 000.

- (2) A person must not, in any residential premises, or from door-to-door, or in a public place, sell or supply an S5 poison or S6 poison that is a product sample except as permitted by Part 2 Section 6.1 of the Uniform Poisons Standard.

Maximum penalty: \$5 000.

- (3) For the purposes of subregulations (1) and (2), a poison is a product sample if—
  - (a) it is supplied directly to the consumer free of charge, or at a nominal charge, as a mechanism to promote the sale of the product; and
  - (b) it is supplied in a small pack produced specifically for the purposes of promotion, or packaged in a normal commercial pack that in other circumstances a consumer would need to purchase.

- (4) A person must not sell or supply an S2 poison, S3 poison, S4 poison or S8 poison in a container that—
- (a) is normally used for containing food or beverages; or
  - (b) is similar to a container that is normally used for containing food or beverages.

Maximum penalty: \$5 000.

- (5) A person must not sell any liquid preparation or admixture containing paraquat unless it is coloured blue or green and contains a stenching agent in sufficient quantity to produce an offensive odour.

Maximum penalty: \$5 000.

- (6) In this regulation—

***public place*** includes—

- (a) a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and
- (b) a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
- (c) a road, street, footway, court, alley or thoroughfare that the public are allowed to use, notwithstanding that the road, street, footway, court, alley or thoroughfare is on private property.

## **10—Substitution of regulation 48**

Regulation 48—delete the regulation and substitute:

### **48—Offence to dispose of poison**

A person must not—

- (a) dispose of or use, or cause to be disposed of or used, an S5 poison, S6 poison or S7 poison except in accordance with the requirements of Part 2 section 4.1 of the Uniform Poisons Standard; or
- (b) dispose of or use, or cause to be disposed of or used, an S2 poison, S3 poison, S4 poison or S8 poison in any manner that constitutes, or is likely to constitute, a risk to public health or safety.

Maximum penalty: \$5 000.

## **11—Variation of regulation 49—Keeping of records etc**

Regulation 49(1)(a)—delete paragraph (a) and substitute:

- (a) in respect of any entry in the records, retain the records at the registered address of the business in this State for a period of—

- (i) in the case of records relating to S7 poisons—for a period of 5 years; or
- (ii) in any other case—for a period of 2 years,  
from the day on which the entry was made; and

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

after consultation by the Minister with the Controlled Substances Advisory Council and with the advice and consent of the Executive Council  
on 16 February 2017

No 14 of 2017

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