

South Australia

# **Controlled Substances (Poisons) (Nitrous Oxide) Variation Regulations 2019**

under the *Controlled Substances Act 1984*

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## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

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

- 4 Amendment of regulation 23—Sale or supply of volatile solvents (section 19 of Act)
  - 5 Insertion of regulations 23A
    - 23A Special provisions relating to retail sale of nitrous oxide
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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Controlled Substances (Poisons) (Nitrous Oxide) Variation Regulations 2019*.

### **2—Commencement**

These regulations come into operation—

- (a) 3 months after the day on which they are made; or
- (b) on 1 April 2020,

whichever is the later.

### **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—Amendment of regulation 23—Sale or supply of volatile solvents (section 19 of Act)**

Regulation 23(1)—delete subregulation (1) and substitute:

- (1) Section 19(3) of the Act applies to—
  - (a) nitrous oxide; and
  - (b) volatile solvents that are petroleum products.
- (1a) For the purposes of section 19(3) of the Act, the age prescribed is—
  - (a) in the case of nitrous oxide—18 years; or
  - (b) in the case of a volatile solvent that is a petroleum product—16 years.
- (1b) A person is exempt from section 19(3) of the Act in respect of the supply of nitrous oxide to a person who is under the age of 18 years if—
  - (a) the first person lawfully carries on a business of selling nitrous oxide; and
  - (b) the second person is an employee of the first person; and
  - (c) the supply is in the ordinary course of business.
- (1c) The Minister may, by notice in the Gazette, exempt any person from section 19(3) of the Act in respect of the sale or supply of nitrous oxide subject to such conditions (if any) as the Minister thinks fit.

### **5—Insertion of regulations 23A**

After regulation 23 insert:

#### **23A—Special provisions relating to retail sale of nitrous oxide**

- (1) A person must not sell a substance that is, or purports to be, nitrous oxide by retail between the hours of 10 pm and 5 am on the following day.  
Maximum penalty: \$5 000.
- (2) A person who sells a substance that is, or purports to be, nitrous oxide from premises by retail must ensure that the substance is—
  - (a) stored in a part of the premises to which members of the public are not permitted access; and
  - (b) stored in such a way that it is not visible to members of the public at the premises.

Maximum penalty: \$5 000.

- (3) A person who sells a substance that is, or purports to be, nitrous oxide from premises by retail must display a notice that complies with the requirements in subregulation (4) in a manner and position that is likely to attract the attention of customers.

Maximum penalty: \$2 500.

Expiation fee: \$315.

- (4) A notice displayed under subregulation (3) must comply with the following requirements:
- (a) the notice must display the following words:  
IT IS UNLAWFUL TO SELL OR SUPPLY NITROUS  
OXIDE TO PERSONS UNDER THE AGE OF 18 YEARS.  
PERSONS MAY BE REQUIRED TO PRODUCE  
EVIDENCE OF AGE WHEN MAKING A PURCHASE;
  - (b) the words required to be displayed must appear on the notice in legible letters or numerals not less than 15 millimetres in height and be of a colour that contrasts with the background colour of the notice.

**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 19 December 2019

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