Australian Capital Territory

Poisons Regulation 1933

made under the

Poisons Act 1933

Republication No 8
Effective: 4 October 2007 – 13 February 2009

Republication date: 4 October 2007

Last amendment made by SL2007-33

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Poisons Regulation 1933*, made under the *Poisons Act 1933* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 4 October 2007. It also includes any amendment, repeal or expiry affecting the republished law to 4 October 2007.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

(a) if the person charged is an individual—$100; or

(b) if the person charged is a corporation—$500.

Australian Capital Territory

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Contents

Australian Capital Territory

Poisons Regulation 1933

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1 Name of regulation

This regulation is the *Poisons Regulation 1933*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***external driver licence***—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.' means that the term 'external driver licence' is defined in that dictionary and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act s 127 (1), (4) and (5) for the legal status of notes.

4 Prescriptions

(1) Except in an emergency, a pharmacist must not dispense any prescription for the supply of a biological preparation or a restricted substance unless the prescription complies with the following conditions:

(a) the prescription must—

(i) be in writing; and

(ii) be dated; and

(iii) state the prescriber's name, address and telephone number; and

(iv) state the name and address of the recipient; and

(v) be written in terms and symbols used in ordinary professional practice; and

(vi) if the prescription is to be dispensed more than once—state the number of times it is to be dispensed and the period that must elapse between each dispensing; and

(vii) if it provides for an unusual or dangerous dose—indicate that the dose is intentionally prescribed; and

(viii) be signed with the usual signature of the prescriber;

(b) if given by a dentist for the purpose of dental treatment—the prescription must be endorsed 'For dental treatment only';

(c) if given by a veterinary surgeon—the prescription must be for the purposes of treatment of animals and must be endorsed 'For animal treatment only'.

(2) A person must not contravene subsection (1).

Maximum penalty: 5 penalty units.

(3) In an emergency—

(a) the pharmacist must comply with as many conditions under subsection (1) as are practicable; and

(b) if the prescription is communicated orally to the pharmacist—the person communicating it must write out the prescription promptly and ensure that it is given to the pharmacist without delay.

Maximum penalty: 5 penalty units.

5 Dispensing

(1) A biological preparation or a restricted substance must not be dispensed by a person who is not—

(a) a doctor, pharmacist or veterinary surgeon; or

(b) a person acting under the direct supervision of a doctor, pharmacist or veterinary surgeon.

Maximum penalty: 5 penalty units.

(2) The following conditions must be observed by people dispensing prescriptions containing a biological preparation or restricted substance:

(a) a person must not dispense a biological preparation or a restricted substance except upon a prescription complying with this regulation;

(b) a biological preparation or restricted substance must not be dispensed more than once on the same prescription unless the prescription indicates that it is to be dispensed a stated number of times;

(c) if the prescription indicates that a biological preparation or restricted substance is to be dispensed a stated number of times—the preparation or substance must not be dispensed on the prescription more than the stated number of times or more frequently than the period stated in the prescription as the period that must elapse between each dispensing;

(d) the prescription must be stamped, marked or inscribed in writing with the date when it is dispensed, and with the name and business address of the person who dispensed it;

(e) the person who dispenses the prescription for the last occasion must durably and legibly endorse the prescription with the word ‘Cancelled’;

(f) a person must not dispense a prescription endorsed as 'Cancelled' or that has, or appears to have, been written more than 12 months before its presentation;

(g) a person must not dispense a prescription for a substance containing a biological preparation or a restricted substance if the person has reason to believe that the prescription is not genuine;

(h) the label on the bottle or package containing a biological preparation or restricted substance must—

(i) state the name of the recipient and, for a preparation or substance dispensed for an animal, the species of the animal; and

(ii) state the date when it was dispensed; and

(iii) state the name, business address and telephone number of the person who dispenses the preparation or substance; and

(iv) if a pharmacist is dispensing the preparation or substance and more than 1 pharmacist is dispensing at the same place at that time—include the initials or other identification of the pharmacist who dispenses the preparation or substance; and

(v) state the prescription reference or identifying number that appears in the record of prescriptions kept where the preparation or substance is dispensed; and

(vi) describe the contents of the preparation or substance using the name given by the manufacturer or its generic name; and

(vii) state the form, strength and quantity of the contents; and

Example—

Prozac Capsules 20mg 28

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(viii) contain adequate directions for the safe and proper use of the preparation or substance; and

(ix) contain any warning statement in the drugs and poisons standard, appendix K, or part 3, paragraph 45, applying to the preparation or substance; and

(x) contain words to the effect 'Keep out of the reach of children';

(i) the record of prescriptions must be kept at the place where the drug is dispensed and must at all reasonable times be produced when demanded by an authorised person;

(j) a person must not dispense a prescription that is illegible or defaced or that appears to have been altered;

(k) a prescription for a substance containing a biological preparation or restricted substance must be kept by the pharmacist to whom it is presented, whether or not the prescription has been dispensed, if—

(i) the pharmacist suspects that the prescription is forged or fraudulently issued; or

(ii) the prescription does not contain the signature of a person authorised to prescribe it.

(3) A person must not contravene subsection (2).

Maximum penalty: 5 penalty units.

5A Requirement to tell buyer about pseudoephedrine record

(1) This section applies if a person (the ***seller***) sells pseudoephedrine to someone (the ***buyer***) by retail.

Note ***Sell by retail*** does not include selling on prescription (see dictionary).

(2) The seller must tell the buyer the following:

(a) that the seller is required to make a record of the sale;

(b) that the buyer may refuse to provide information for the record but, if the buyer refuses, the seller must not sell pseudoephedrine to the buyer;

(c) that the record may be made available to the following people:

(i) a police officer;

(ii) a public servant who is a member of the administrative unit to which the chief health officer belongs;

(iii) anyone else who supplies pseudoephedrine to the public in Australia;

(iv) a public servant of the Commonwealth or of a State who is a member of an administrative unit that administers legislation about poisons;

(v) the Pharmacy Guild of Australia;

(d) that the buyer has the right to access the record and have any mistake corrected.

Note If a form is approved under the Act, s 20A for this provision, the form must be used.

(3) A person commits an offence if—

(a) the person sells pseudoephedrine by retail to someone else (the ***buyer***); and

(b) before the sale, the person did not tell the buyer something the person was required under subsection (2) to tell the buyer.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

police officer includes a member of a police force (however described) of a State.

5B Records of pseudoephedrine sales

(1) A person (the ***seller***) who sells pseudoephedrine to someone (the ***buyer***) by retail must, at the time of the sale, make a record of the following:

(a) the date of sale;

(b) the brand name, dosage form and quantity of pseudoephedrine sold;

(c) the buyer's name and address;

(d) a unique identification number for the buyer from—

(i) a photo identification document produced to the seller by the buyer; or

Example

a person's driver licence number

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(ii) if the buyer cannot produce a photo identification document—a non-photo identification document produced to the seller by the buyer;

(e) the kind of identification the buyer produces.

Note If a form is approved under the Act, s 20A for this provision, the form must be used.

(2) The record must be—

(a) in English; and

(b) in writing; and

Note Under the *Electronic Transactions Act 2001*, s 11 records may be kept electronically in some cases.

(c) made in such a way that the record is easily retrievable.

(3) A person commits an offence if the person—

(a) sells pseudoephedrine by retail; and

(b) does not make a record in accordance with this section.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

non-photo identification document, for a person, means either of the following documents:

(a) the person's birth certificate that—

(i) identifies the issuing jurisdiction; and

(ii) states the date of issue;

(b) an Australian or New Zealand seniors card.

photo identification document, for a person, means any of the following documents if the document is current and contains the person's photograph:

(a) the person's Australian driver licence;

(b) the person's external driver licence;

(c) the person's passport, other than an Australian passport;

(d) the person's proof of age card;

(e) the person's Australian student identification card.

Note This provision includes the following terms that are defined in the dictionary: ***Australian student identification card***, ***birth certificate***, ***external driver licence***, ***proof of age card***.

5C Buyer access to pseudoephedrine record

(1) This section applies if—

(a) a person (the ***buyer***) buys pseudoephedrine by retail from someone (the ***seller***); and

(b) the seller makes a record under section 5A about the purchase.

(2) If the buyer asks to see the record, the seller must, within a reasonable period, allow the buyer to see the record.

(3) If the buyer believes the record is incorrect, the buyer may ask the seller to change the record.

(4) The seller may change the record in accordance with the request.

5D Failure to change pseudoephedrine record

(1) This section applies if—

(a) a person (the ***buyer***) asks someone (the ***seller***) under section 5C to change a pseudoephedrine record; and

(b) the seller does not make the change.

(2) The buyer may, in writing, apply to the chief health officer for a direction to the seller to make the change.

(3) The chief health officer must—

(a) give a copy of the application to the seller; and

(b) ask the seller to give written reasons not later than 10 working days why the change should not be made.

5E Chief health officer's decision

(1) After considering an application under section 5D (2) and any reasons given in accordance with the request under section 5D (3), the chief health officer must—

(a) direct the seller to change the pseudoephedrine record—

(i) in accordance with the application; or

(ii) in a stated way other than in accordance with the application; or

(b) refuse the application.

(2) The chief health officer must give the buyer and seller written notice of the decision.

(3) A person commits an offence if—

(a) the chief health officer directs the person in writing to change a pseudoephedrine record; and

(b) the seller does not change the record as directed.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

6 Periods for which books etc are to be preserved

All books, records and documents that are required to be kept for a prescribed period must (unless otherwise prescribed), for books or records, be preserved for 2 years from the date when the last entry is made, and, for any document, for 2 years from the date when it is first received.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- Australian driver licence
- person
- prescribed
- State.

Note 3 Terms used in this regulation have the same meaning that they have in the *Poisons Act 1933* (see Legislation Act, s 148). For example, the following terms are defined in the *Poisons Act 1933*, dict:

- drugs and poisons standard
- sell.

Australian student identification card means a card issued to a person who is a student at an Australian secondary or tertiary education institution to identify the person as a student at the institution.

birth certificate, for a person, means the person's birth certificate, or a certified extract from the register about the person's birth, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, an external Territory or New Zealand.

external driver licence—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

prescriber, for a prescription, means a person authorised to give the prescription.

proof of age card means a proof of age card issued under the *Liquor Act 1975* or a law of a State, an external Territory or New Zealand.

pseudoephedrine means pseudoephedrine to which the drugs and poisons standard, schedule 3 applies.

pseudoephedrine record means a record made under section 5A about a sale of pseudoephedrine.

recipient means—

(a) for a prescription for an individual—the person for whom the prescription is given; and

(b) for a prescription given for the treatment of an animal—an owner of the animal or a person who has the care of the animal.

sell, by retail, does not include sell on prescription.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended
amdt = amendment
ch = chapter
def = definition
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
renum = renumbered
reloc = relocated
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
sub = substituted
SL = Subordinate Law
underlining = whole or part not commenced or to be expired

3 Legislation history

This regulation was originally called the *Poisons Regulations* and was originally made under a Commonwealth ordinance—the *Poisons and Drugs Ordinance 1933* No 37 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT, and the regulations made under them, into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. The *Poisons and Drugs Ordinance 1933* and the *Poisons Regulations* were converted into ACT enactments on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name of the ordinance was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

This regulation was renamed by the *Health and Community Care Legislation Amendment Act 2000* No 28 (see sch 3) and under the *Legislation Act 2001*.

Before 11 May 1989, section commenced on notification day unless otherwise stated (see *Interpretation Ordinance 1914*, s 5, *Interpretation Ordinance 1937* s 16, *Interpretation Act 1967* s 50, *Subordinate Laws Act 1989* s 6).

Legislation before becoming Territory enactment

Poisons Regulation 1933
notified 21 December 1933
commenced 1 January 1934

as amended by

Poisons Regulations 1963 No 2
notified 13 June 1963
commenced 13 June 1963

Poisons Regulations 1976 No 22
notified 3 November 1976
commenced 3 November 1976

Poisons Regulations 1977 No 4
notified 22 February 1977
commenced 22 February 1977

Poisons Regulations 1979 No 3
notified 7 March 1979
commenced 7 March 1979

Poisons Regulations 1979 No 26
notified 29 November 1979
commenced 29 November 1979

Poisons Regulations 1980 No 3
notified 25 March 1980
commenced 25 March 1980

Poisons Regulations 1988 No 13
notified 1 July 1988
commenced 2 July 1988

Poisons Regulations 1989 No 5
notified 15 March 1989
commenced 15 March 1989

Legislation after becoming Territory enactment

Health Services (Consequential Provisions) Act 1990 No 63 sch 2
notified 28 December 1990
s 1, s 2 commenced 28 December 1990 (s 2 (1))
sch 2 commenced 31 January 1991 (s 2 (2) and Gaz 1991 No S4)

Health (Consequential Provisions) Act 1993 No 14 sch 2
notified 1 March 1993
sch 2 commenced 1 March 1993 (s 2)

Public Health (Miscellaneous Provisions) Act 1997 No 70 sch 2
notified 9 October 1997
s 1, s 2 commenced 9 October 1997 (s 2 (1))
sch 2 commenced 13 August 1998 (s 2 (2) and Gaz 1998 No S185)

Health and Community Care Legislation Amendment Act 2000 No 28 sch 3
notified 30 June 2000 (Gaz 2000 No S30)
s 1, s 2 commenced 30 June 2000 (IA s 10B)
sch 3 commenced 1 July 2000 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 288
notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 288 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 7
notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
pt 7 commenced 27 May 2004 (s 2 and CN2004-9)

Poisons Amendment Regulation 2007 (No 1) SL2007-33
notified LR 3 October 2007
s 1, s 2 commenced 3 October 2007 (LA s 75 (1))
remainder commenced 4 October 2007 (LA s 73 (3))

4 Amendment history

Preliminary

pt 1 hdg	om 1980 No 3

Name of regulation

s 1	sub Act 2000 No 28 sch 3 am R7 LA

Dictionary

s 2	orig s 2 am 1963 No 2 om 1976 No 22 ins Act 2000 No 28 sch 3 am Act 2001 No 44 amdt 1.3229 sub SL2007-33 s 4 def ***prescriber*** om SL2007-33 s 4 def ***recipient*** om SL2007-33 s 4 def ***the Act*** om Act 2001 No 44 amdt 1.3230

Notes

s 3	am 1963 No 2; 1989 No 5; Act 1997 No 70 sub Act 2000 No 28 sch 3 om Act 2001 No 44 amdt 1.3231 ins SL2007-33 s 4

Prescriptions

s 4 orig s 4 am 1977 No 4; 1988 No 13; 1989 No 5; Act 1990 No 63 sch 2; Act 1997 No 70 sch 2
om Act 2000 No 28 sch 3
(prev s 12) am 1963 No 2; 1979 No 3; 1989 No 5; Act 2000 No 28 sch 3
renum R4 LRA (see Act 2000 No 28 sch 3)

The sale of poisons and poisonous substances

pt 2 hdg om 1979 No 26

Dispensing

s 5 orig s 5 om 1979 No 3
(prev s 13) am 1963 No 2; 1979 No 26; 1989 No 5; Act 2000 No 28 sch 3; R4 LRA (see Act 2000 No 28 sch 3)
renum R4 LRA (see Act 2000 No 28 sch 3)
am A2004-10 s 20

Requirement to tell buyer about pseudoephedrine record

s 5A ins SL2007-33 s 5

Records of pseudoephedrine sales

s 5B ins SL2007-33 s 5

Buyer access to pseudoephedrine record

s 5C ins SL2007-33 s 5

Failure to change pseudoephedrine record

s 5D ins SL2007-33 s 5

Chief health officer's decision

s 5E ins SL2007-33 s 5

Periods for which books etc are to be preserved

s 6 orig s 6 om 1979 No 3
(prev s 23) am 1979 No 26
renum R4 LRA (see Act 2000 No 28 sch 3)

Requirements to be complied with

s 7 am 1977 No 4
om 1979 No 3

The sale of methylated spirit

pt 3 hdg om 1979 No 26

Sale of methylated spirit

s 8 am 1976 No 22
om 1979 No 3

Vendor of methylated spirit to hold licence

s 9 om 1979 No 3

Hours of sale
s 10 am 1977 No 4
om 1979 No 3

The sale of narcotic drugs
pt 4 hdg sub 1963 No 2
om 1979 No 26

Non-application of Part 4
s 11 om 1979 No 3

Marking of containers with amount of narcotic drug contained therein
s 14 om 1979 No 3

Label to be affixed when prescription last dispensed
s 15 om 1979 No 3

Narcotic drugs to be locked up in cupboard
s 16 sub 1977 No 4
om 1989 No 5

Storage of narcotic drugs by pharmacists etc
s 16A ins 1977 No 4
am 1988 No 13
om 1989 No 5

Requirements for cabinets
s 16B ins 1977 No 4
am 1979 No 26; 1988 No 13
om 1989 No 5

Persons selling narcotic drugs to comply with certain requirements
s 17 am 1977 No 4
om 1979 No 3

Records to be kept by medical practitioners etc
s 18 om 1979 No 3

Records to be kept by pharmacists
s 19 om 1979 No 3

Supply of narcotic drugs for the purpose of addiction
s 20 om 1979 No 3

Delivery of narcotic drugs to unauthorised persons
s 21 om 1979 No 3

Records to be kept by manufacturers
s 22 am 1977 No 4; 1979 No 26; 1988 No 13
om 1989 No 5

Miscellaneous
pt 5 hdg om 1980 No 3

Penalties

s 24	am 1977 No 4 om Act 2000 No 28 sch 3

Licence

sch	sub 1977 No 4 am 1988 No 13; 1989 No 5; Act 1990 No 63; Act 1993 No 14; Act 1997 No 70 om Act 2000 No 28 sch 3

Dictionary

dict	ins SL2007-33 s 6 def ***Australian student identification card*** ins SL2007-33 s 6 def ***birth certificate*** ins SL2007-33 s 6 def ***external driver licence*** ins SL2007-33 s 6 def ***prescriber*** ins SL2007-33 s 6 def ***proof of age card*** ins SL2007-33 s 6 def ***pseudoephedrine*** ins SL2007-33 s 6 def ***pseudoephedrine record*** ins SL2007-33 s 6 def ***recipient*** ins SL2007-33 s 6 def ***sell*** ins SL2007-33 s 6

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	SL 1989 No 5	30 June 1991
2	Act 1993 No 14	30 November 1996
3	Act 1997 No 70	31 July 1999
4	Act 2000 No 28	28 August 2000
5	A2001-44	7 December 2001
6	A2004-10	27 May 2004
7	A2004-10	2 November 2004