



7-8 EDWARD VII.

CHAP. 56.

An Act respecting Proprietary or Patent Medicines.

[Assented to 20th July, 1908.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Proprietary or Patent Medicine Act*. Short title.

2. In this Act, unless the context otherwise requires,— Definitions.

- (a) "Minister" means the Minister of Inland Revenue or any person duly authorized to act in his stead, or any other head of a department charged with the administration of this Act;
- (b) "proprietary or patent medicine" means every artificial remedy or prescription manufactured for the internal use of man, the name, composition or definition of which is not to be found in the British Pharmacopœia, the Codex Medicamentarius of France, the Pharmacopœia of the United States, or any foreign pharmacopœia approved by the Minister, or any formulary adopted by any properly constituted pharmaceutical association representing the Dominion of Canada, approved by the Minister; or upon which is not printed in a conspicuous manner, and forming an inseparable part of the label and wrapper, the true formula or list of medicinal ingredients, which must not contain cocaine or any of its derivatives or preparations;
- (c) "officer" means any officer of Inland Revenue or any person authorized under this Act or *The Adulteration Act* to procure samples of articles of food, drugs, agricultural fertilizers or medicines and to submit them for analysis;
- (d) where the manufacturer of a proprietary or patent medicine is not the proprietor thereof, the proprietor who procures it to be manufactured shall be deemed to be the manufacturer within the meaning of this Act.

Certificate of registration before sale of medicines.

3. Every manufacturer or importer of proprietary or patent medicines, and every agent of such manufacturer or importer, shall, before offering any medicine for sale, procure annually from the Minister of Inland Revenue a numbered certificate of registration as a manufacturer or importer of proprietary or patent medicines.

List of medicines covered by certificate.

2. Such manufacturer, importer or agent shall, at the time of applying for the said certificate of registration, furnish the Minister with a list of the medicines which it is proposed to manufacture or import under each certificate: Provided that the said list may be added to from time to time.

Fee for certificate.

3. A fee of one dollar shall be paid for each certificate of registration.

Labels.

4. All proprietary or patent medicines shall be put up in packages or bottles, and every one of these, intended for sale or distribution in Canada, shall have placed upon it, in conspicuous characters forming an inseparable part of the general label and wrapper, the name and number under which the medicine is registered, with the words "The Proprietary or Patent Medicine Act," and also the manufacturer's name and address, which name and number shall be sufficient identification, as to the manufacturer thereof, for the purposes of section 14 of this Act.

Officers and analysts.

5. The Governor in Council may appoint officers or analysts for the purpose of carrying out the provisions of this Act, and they shall hold office during pleasure and shall perform such duties as are assigned to them under regulations of the Governor in Council.

Remuneration.

2. The Governor in Council may cause such remuneration to be paid to such officers and analysts as he deems proper, and such remuneration, whether by fees or salary, or partly in one way and partly in the other, shall be paid to them out of any sum voted by Parliament for the purpose.

Agents in Canada of foreign manufacturers.

6. Where the chief place of business or head office of any person, firm or corporation within the meaning of this Act is elsewhere than in Canada, such person, firm or corporation shall file with the Minister the name of a person or corporation in, or having its head office in, Canada, as the agent or representative of such person, firm or corporation for all the purposes of this Act; and any notice to, or communication or dealing with, such agent or representative by the Minister shall be effectual to all intents and purposes under this Act.

2. In default of such filing the Minister may take any proceedings or action under this Act *ex parte* and without any notice to, or communication with, such person, firm or corporation.

7. No proprietary or patent medicine shall be manufactured, imported, exposed, sold or offered for sale— Prohibited medicines.

- (a) if it contains cocaine or any of its salts or preparations;
- (b) if it contains alcohol in excess of the amount required as a solvent or preservative, or does not contain sufficient medication to prevent its use as an alcoholic beverage;
- (c) if it contains any drug which is included in the schedule to this Act but the name of which is not conspicuously printed on, and an inseparable part of, the label and wrapper of the bottle, box or other container: Provided that every manufacturer or importer of or agent for the sale of any medicine containing any of the drugs mentioned in the schedule may, when applying for a certificate of registration for any medicine, transmit to the Minister an affidavit specifying such drug and the proportion of it contained in the mixture and dose, and the Minister may thereupon grant a certificate of registration for such medicine without the printing of the name of the said drug upon the label and wrapper if it appears to the Minister that the proportion of the drug used is not dangerous to health.

2. The burden of proof that the provisions of this section have been observed shall rest upon the person or company manufacturing, importing, selling or offering for sale such patent or proprietary medicine. Burden of proof.

8. The Minister may order any officer to obtain samples of any proprietary or patent medicine, and the manner of obtaining and treating such samples shall be as provided by departmental regulations. Samples ordered by Minister.

9. No person, firm or corporation shall distribute or cause or permit to be distributed from door to door, or upon a public place or highway, or through the mail, any sample of a proprietary or patent medicine: Provided this section shall not prevent manufacturers or wholesale dealers distributing samples to the trade. Distribution from door to door.

10. No manufacturer, importer or vendor shall, in any advertisement or in any other manner, assert or indicate that the certificate of registration issued by the Minister passes upon the merits of any proprietary or patent medicine, and no reference to such certificate, or to any other certificate or guarantee, other than by this Act specially provided, shall be made in any advertisement, upon any label upon the package or bottle in which such medicine is contained, or in any other manner. Improper use of certificate or license.

2. No proprietary or patent medicine shall be imported, exposed, sold or offered for sale in Canada which bears any representations as respects certificates issued under any Canadian or foreign governments different from that allowed under this Act.

Penalty.

3. Every person who violates the provisions of this section shall, for a first offence, incur a penalty of fifty dollars and costs, and for any subsequent offence a penalty not exceeding five hundred dollars and not less than one hundred dollars and costs, and the certificate of registration shall be cancelled.

Forgery of
label or
certificate

11. Every person, firm or corporation who unlawfully uses, or forges or alters, or uses, knowing it to be forged or altered, any manufacturer's label or certificate required under this Act, is guilty of an offence, and liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars, and to imprisonment, with or without hard labour, for any term not exceeding twelve months and not less than three months.

Penalties

12. Every person, firm or corporation failing to observe any provision of this Act for which a specific penalty has not been provided, shall for a first offence incur in each case a penalty not exceeding fifty dollars and costs, and for every subsequent offence a penalty not exceeding one hundred dollars and costs, and his certificate of registration may be cancelled.

Liability of
directors.

13. The directors of any company incorporated in Canada shall be jointly and severally liable for any offence against this Act by such company or by any of its officers.

Defence.

14. In the case of any person accused of selling, offering or exposing for sale any proprietary or patent medicine which is not in conformity with the provisions of this Act, and upon which there appears the name and number under which the medicine is registered, with the words "The Proprietary or Patent Medicine Act," and also the manufacturer's name and address, if the person so charged also proves that he sold the said medicine in the same state as when he purchased it and that he could not with reasonable diligence have obtained knowledge of such medicine being of a character contrary to the provisions of this Act, or knowledge of the forgery, or alteration, or unlawful use of the manufacturer's label and certificate, as the case may be, he shall be discharged; but he shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice in writing to the prosecutor that he will rely upon the said defence and has also given to the prosecutor notice in writing of the name of the person from whom he purchased such medicine, but in any case the Minister may, if the medicine is sold, offered or exposed for sale contrary to the provisions of this Act, declare the medicine forfeited to the Crown.

All parties
may be
heard.

2. If the person who gives notice of such defence, or the prosecutor, obtains a summons to bring such third party before the court, the court shall at the same time hear all the parties and decide upon the entire merits of the case, not only as regards

the person originally accused but also as regards the third party so brought before the court.

15. Every penalty or forfeiture incurred for any offence against this Act, or any regulation thereunder, may be recovered in the name of His Majesty in a summary manner, with costs, under the provisions of Part XV. of *The Criminal Code*. Recovery of
penalties.

16. Any term of imprisonment for an offence against the provisions of this Act, whether in conjunction with a pecuniary penalty or not, may be adjudged and ordered, — Imprisonment

(a) by the Exchequer Court of Canada, or any court of record having jurisdiction in the premises; or

(b) if such term of imprisonment does not exceed twelve months, exclusive of any term of imprisonment adjudged or ordered for non-payment of any pecuniary penalty, whether the offence in respect of which the liability to imprisonment has been incurred is declared by this Act to be an indictable offence or not, in a summary manner under the provisions of Part XV. of *The Criminal Code*, by a judge of a county court, or by a police or stipendiary magistrate, or any two justices of the peace having jurisdiction in the place where the cause of prosecution arises, or wherein the defendant is served with process.

17. The Governor in Council may make such regulations for giving effect to any of the provisions of this Act or in respect of the sale of any patent or proprietary medicine in stock at the time of the passing of this Act, and declaring the true intent thereof, in any case of doubt, as to him seems meet, and may also add to or remove from the schedule to this Act any poisons or potent drugs, as from time to time he deems expedient, and notice thereof shall be given in *The Canada Gazette*. Regulations.

18. All regulations made under this Act, whether made by the Governor in Council or the Department of Inland Revenue, shall have the force of law, and any violation of any such regulation shall subject the person in the said regulation mentioned to such penalty or forfeiture as is, by the said regulation, imposed for such violation. Any regulations so made shall be laid on the table of the Senate and House of Commons within ten days after the opening of Parliament. Violation of
regulations

Regulations
to be laid
before
Parliament.

19. This Act shall come into force upon such day as the Governor General by proclamation directs. Commence-
ment of Act.

SCHEDULE.

Acetanilide and other coal tar products.
Aconite and its preparations.
Arsenical preparations.
Atropine.
Belladonna and its preparations.
Cantharides.
Carbolic acid.
Chloral hydrate.
Chloroform.
Conia and compounds thereof.
Corrosive sublimate.
Cotton root.
Croton oil
Digitalis and derivatives.
Ergot.
Essential oil of mustard.
Ether.
Hellebore.
Heroin.
Hyoscyamin and its preparations.
Indian hemp.
Nux vomica and derivatives.
Pennyroyal.
Phenacetine.
Prussic acid.
Savin, and preparations thereof.
Strychnine and its preparations.
Sulphonal.
Tansy.
Tartrate of antimony.
Veratria.

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most Excellent Majesty.