

TASMANIA

POISONS AMENDMENT REGULATIONS 2023
STATUTORY RULES 2023, No. 5

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POISONS AMENDMENT REGULATIONS 2023

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Poisons Act 1971*.

Dated 27 February 2023.

B. BAKER
Governor

By Her Excellency's Command,

JEREMY ROCKLIFF
Minister for Health

1. Short title

These regulations may be cited as the *Poisons Amendment Regulations 2023*.

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Principal Regulations

In these regulations, the *Poisons Regulations 2018** are referred to as the Principal Regulations.

*S.R. 2018, No. 79

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4. Regulation 26 amended (Minister’s authorisation for possession and supply of narcotic substance)

Regulation 26 of the Principal Regulations is amended as follows:

- (a) by inserting in paragraph (b) “or an authorised nurse practitioner” after “for a medical practitioner”;
- (b) by inserting in paragraph (b) “or an authorised nurse practitioner” after “of a medical practitioner”;
- (c) by inserting in paragraph (c) “or authorised nurse practitioners” after “practitioners”;
- (d) by inserting in paragraph (c) “or an authorised nurse practitioner” after “practitioner”;
- (e) by inserting in paragraph (d) “or an authorised nurse practitioner” after “practitioner”;
- (f) by inserting in paragraph (e)(i) “or an authorised nurse practitioner” after “practitioner”;
- (g) by inserting in paragraph (e)(ii) “or an authorised nurse practitioner” after “practitioner”.

5. Regulation 43 amended (Storage of poisons, &c.)

Regulation 43 of the Principal Regulations is amended by inserting after subregulation (4) the following subregulation:

- (5) A person who has possession, custody or control, for sale or supply, of a substance specified in Schedule 6 of the Poisons List must keep the substance in such a way as to prevent access by children.

Penalty: Fine not exceeding 10 penalty units.

6. Regulation 48 substituted

Regulation 48 of the Principal Regulations is rescinded and the following regulation is substituted:

48. Continued dispensing without prescription in specified circumstances

- (1) Notwithstanding regulation 45(5) and regulation 47, a pharmacist may supply up to, and including, the specified quantity of a restricted substance, other than a declared restricted substance, on the basis of a previous prescription if –
- (a) a valid prescription is unavailable; and
 - (b) the supply is in accordance with the conditions set out in subregulation (3).

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- (2) Subregulation (1) does not apply where a prescriber, after considering the clinical safety of a person, specifies in writing on an individual prescription that continued dispensing on the basis of a previous prescription is not to occur.
- (3) For the purposes of subregulation (1), a pharmacist must not supply a restricted substance to a person on the basis of a previous prescription unless –
 - (a) the pharmacist is satisfied that –
 - (i) the usual prescriber is unable to be contacted or is unable to provide an electronic prescription; and
 - (ii) the person has previously been supplied the restricted substance on the basis of a prescription from the usual prescriber; and
 - (iii) the person's therapy is stable; and
 - (iv) the person has been taking the restricted substance regularly for an uninterrupted period; and
 - (v) since the start of the period referred to in

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subparagraph (iv), the usual prescriber has assessed the person's condition and decided that there is a need for ongoing treatment with the restricted substance; and

(vi) the person had a valid prescription for the last supply of the restricted substance to the person before the requested supply; and

(vii) the person has not been supplied with the restricted substance via continued dispensing without a prescription in the 12 months before the requested supply; and

(b) the person, or an agent of the person (other than the pharmacist), signs a declaration acknowledging that the person is being supplied with the restricted substance without the presentation of a valid prescription.

(4) A pharmacist who supplies a restricted substance to a person under subregulation (1) must –

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- (a) record the information that the pharmacist used to support the pharmacist's decision to supply the restricted substance; and
- (b) provide information to the usual prescriber about the supply to the person within 7 days of the supply occurring.

Penalty: Fine not exceeding 10 penalty units.

- (5) For the purposes of subregulation (4), the information must include a statement that –
 - (a) the conditions specified in subregulation (3) have been satisfied; and
 - (b) the pharmacist is satisfied that the restricted substance was required to be supplied to the person to facilitate continuity of treatment.

- (6) For the purposes of this regulation –

previous prescription, in respect of a restricted substance, means the most recent prescription for that substance that has been exhausted;

specified quantity, in respect of a restricted substance, means the quantity of the substance that was

supplied in accordance with the previous prescription;

usual prescriber, in respect of a person being supplied with a restricted substance, means the prescriber who would ordinarily have prescribed the restricted substance for the person.

7. Regulation 68 amended (Minister’s authorisation for possession and supply of restricted substance)

Regulation 68 of the Principal Regulations is amended as follows:

- (a) by inserting in paragraph (b) “or an authorised nurse practitioner” after “for a medical practitioner”;
- (b) by inserting in paragraph (b) “or an authorised nurse practitioner” after “of a medical practitioner”;
- (c) by inserting in paragraph (c) “or authorised nurse practitioners” after “practitioners”;
- (d) by inserting in paragraph (c) “or an authorised nurse practitioner” after “practitioner”;
- (e) by inserting in paragraph (d) “or an authorised nurse practitioner” after “practitioner”;

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- (f) by inserting in paragraph (da) “or an authorised nurse practitioner” after “practitioner”;
- (g) by inserting in paragraph (f) “or an authorised nurse practitioner” after “practitioner”;
- (h) by inserting in paragraph (g)(i) “or an authorised nurse practitioner” after “practitioner”;
- (i) by inserting in paragraph (g)(ii) “or an authorised nurse practitioner” after “practitioner”.

8. Regulation 95G substituted

Regulation 95G of the Principal Regulations is rescinded and the following regulation is substituted:

95G. Prescriber or dispenser not required to check monitored medicines database

- (7) For the purposes of section 38G of the Act, a prescriber is not required to check the monitored medicines database when prescribing –
 - (a) a VAD substance in accordance with the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021*; or
 - (b) a substance to a person who is –

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- (i) suffering an incurable, progressive, far-advanced disease or medical condition; and
 - (ii) has limited life expectancy due to the disease or medical condition; and
 - (iii) is receiving palliative treatment; or
 - (c) a substance to a person who is an in-patient being treated in a medical institution; or
 - (d) a substance to a person who is a patient being treated in an emergency department of a hospital and the monitored medicine is to be administered in the course of treatment given in that emergency department.
- (8) For the purposes of 38H of the Act, a dispenser is not required to check the monitored medicines database when dispensing, issuing or supplying –
- (a) a VAD substance in accordance with the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021*; or
 - (b) a substance to a person who is –

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- (i) suffering an incurable, progressive, far-advanced disease or medical condition; and
 - (ii) has limited life expectancy due to the disease or medical condition; and
 - (iii) is receiving palliative treatment; or
- (c) a substance to a person who is an in-patient being treated in a medical institution; or
- (d) a substance to a person who is a patient being treated in an emergency department of a hospital and the monitored medicine is to be administered in the course of treatment given in that emergency department.

9. Schedule 8 amended (Infringement Notice Offences)

Schedule 8 to the Principal Regulations is amended by inserting after item 59 in Part 2 the following item:

59A.	Regulation 43(5)	2
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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 6 March 2023.

These regulations are administered in the Department of Health.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations amend the *Poisons Regulations 2018* in relation to –

- (a) exemptions from checking the monitored medicines database; and
- (b) the continued dispensing of restricted substances; and
- (c) the storage of Schedule 6 substances; and
- (d) other miscellaneous matters.