



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

INDIA

Communicated by the Government of India

NOTE BY THE SECRETARIAT

- a) International non-proprietary names in the text have been underlined by the Secretariat.
- b) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- c) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

E/NL.1980/102

THE OPIUM ACT, 1878

ACT I OF 1878

9 JANUARY 1878

MINISTRY OF LAW

ARRANGEMENT OF SECTIONS

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THE OPIUM ACT, 1878

Act No. 1 of 1878

An Act to amend the law relating to Opium. ^{1/}

9th January, 1878.

Preamble

Whereas it is expedient to amend the law relating to opium;
It is hereby enacted as follows:

Short title.
Local extent.

1. This Act may be called the Opium Act, 1878.

It extends to the whole of India except the State of Jammu and Kashmir.

2. Repeal and amendment of enactments. Rep. partly by the Amending Act, 1891 (12 of 1891) s. 2 and Sch. I, Pt. I, and partly by the Amending Act, 1894 (4 of 1894), s. 2 and Sch. I.

Interpretation-
clause.

3. In this Act, unless there be something repugnant in the subject or context:

"opium" means:

(i) the capsules of the poppy Papaver somniferum L., whether in their original form or cut, crushed or powdered, and whether or not juice has been extracted therefrom;

(ii) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

1/ Note by the Secretariat:

List of Amending Acts and Adaptation Orders

1. The Amending Act, 1891 (12 of 1891).
2. The Amending Act, 1894 (4 of 1894).
3. The Devolution Act, 1920 (38 of 1920).
4. The Dangerous Drugs Act, 1930 (2 of 1930).
5. The Government of India (Adaptation of Indian Laws) Order, 1937.
6. The Adaptation of Laws Order, 1950.
7. The Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950).
8. The Opium Laws (Amendment) Act, 1957 (52 of 1957).

(iii) any mixture, with or without neutral materials, of any of the above forms of opium, but does not include any preparation containing not more than 0.2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930. ^{2/}

"Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere, a Magistrate of the first class or when specially empowered by the State Government to try cases under this Act a Magistrate of the second class;

"customs frontiers" means any of the customs frontiers of India as defined by the Central Government under section 3A of the Sea Customs Act, 1878;

"import" and "export" mean respectively to bring into, or take out of, a State otherwise than across any customs frontiers;

"transport" means to remove from one place to another within the same State;

"sale" does not include sale for export across customs frontiers, and "sell" shall be construed accordingly.

4. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by rules framed under this Act or under any such enactment, no one shall:

- (a) possess opium;
- (b) transport opium;
- (c) import or export opium; or
- (d) sell opium.

Prohibition of poppy cultivation and possession, etc., of opium.

5. The State Government may, from time to time, by notification in the Official Gazette, make rules consistent with this Act, to permit absolutely, or subject to the payment of duty or to any other conditions, and to regulate, within the whole or any specified part of the territories administered by such Government, all or any of the following matters:

- (a) the possession of opium;
- (b) the transport of opium;
- (c) the importation or exportation of opium; and
- (d) the sale of opium and the farm of duties leviable on the sale of opium by retail:

Power to make rules to permit such matters.

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea-customs for the time being in force or under the Dangerous Drugs Act, 1930.

^{2/} Note by the Secretariat: E/NL.1980/34.

6. Duty on opium imported by land. Rep. by the Dangerous Drugs Act, 1930 ^{2/} s. 40 and Sch. II.

Warehousing
opium.

7. The State Government may, by notification published in the Official Gazette, declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories administered by that Government, or into any specified part thereof, and intended to be exported thence.

So long as the declaration remains in force, the owner of all such opium shall be bound to deposit it in that warehouse.

Power to
make rules
relating to
warehouses.

8. The State Government may, from time to time, by notification in the Official Gazette, make rules consistent with this Act to regulate the safe custody of opium warehoused under section 7; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Penalty for
illegal culti-
vation of
poppy, etc.

9. Any person who, in contravention of this Act, or of rules made and notified under section 5 or section 8:

- (a) possesses opium, or
- (b) transports opium, or
- (c) imports or exports opium, or
- (d) sells opium, or
- (e) omits to warehouse opium, or removes or does any act in respect of warehoused opium,

and any person who otherwise contravenes any such rule,

shall, on conviction before a Magistrate, be punishable for each such offence with imprisonment which may extend to three years, with or without fine;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption
in prosecu-
tions under
section 9.

10. In prosecutions under section 9, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation
of opium.

11. In any case in which an offence under section 9 has been committed,

- (a) the opium in respect of which any offence under the same section has been committed;

- (b) where, in the case of an offence under clause (b) or (c) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting;
- (c) where, in the case of an offence under clause (d) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium,

shall be liable to confiscation.

The vessels, packages and coverings in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall likewise be liable to confiscation.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Order of
confiscation
by whom
to be
made.

Whenever confiscation is authorised by this Act, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the district or Deputy Commissioner, or by any other officer authorized by the State Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

13. The State Government may, from time to time, by notification in the Official Gazette make rules consistent with this Act to regulate:

Power to
make rules
regarding
disposal of
things con-
fiscated and
rewards.

- (a) the disposal of all things confiscated under this Act;
and
- (b) the rewards to be paid to officers and informers.

14. Any officer of the department of Central Excise, Narcotics, Drugs Control, Customs, Revenue, Police or Excise, superior in rank to a peon or constable, authorized in this behalf by the Central Government or the State Government, who has reason to believe, from personal knowledge or from

Power to enter,
arrest and seize,
on information
that opium is
unlawfully kept
in any enclosed
place.

information given by any person and taken down in writing, that opium liable to confiscation under this Act is kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

- (a) enter into any such building, vessel or place;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such opium and any other thing which he has reason to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium; and
- (d) detain and search, and if he thinks proper arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to
seize opium
in open places.
Power to detain,
search and
arrest.

15. Any officer of any of the said departments may:
- (a) seize, in any open place or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under Section 11 or any other law for the time being in force relating to opium,
 - (b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Searches
how made.

16. All searches under section 14 or section 15 shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers to
assist each
other.

17. The officers of the several departments mentioned in section 14 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Vexatious
entries, searches,
seizures and
arrests.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

19. The Collector of the district, Deputy Commissioner or other officer authorized by the State Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

Issue of warrants.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section 14 or section 15, shall be forwarded without delay to the officer in charge of the nearest police-station; and every person arrested and thing seized under section 19 shall be forwarded without delay to the officer by whom the warrant was issued.

Disposal of person arrested or thing seized

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Report of arrests and seizures.

22. Procedure in case of illegal poppy-cultivation.
Rep. by the Dangerous Drugs Act, 1930, ^{2/} s. 40 and Sch. II.

23. Any arrear of any fee or duty imposed under this Act or any rule made hereunder,

Recovery of arrears of fees, duties, etc.

and any arrear due from any farmer of opium-revenue, may be recovered from the person primarily liable to pay the same to the State Government or from his surety (if any) as if it were an arrear of land revenue.

24. When any amount is due to a farmer of opium revenue from his licensee, in respect of a license, such farmer may make an application to the Collector of the district, Deputy Commissioner or other officer authorized by the State Government in this behalf, praying such officer to recover such amount on behalf of the applicant; and, on receiving such application, such Collector, Deputy Commissioner or other officer may in his discretion recover such amount as if it were an arrear of land revenue, and shall pay any amount so recovered to the applicant:

Farmer may apply to Collector or other officer to recover amount due to him by licensee.

Provided that the execution of any process issued by such Collector, Deputy Commissioner or other officer for the recovery of such amount, shall be stayed if the licensee institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of such officer for the payment

of the amount which such Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any farmer of opium revenue to recover by suit in the Civil Court or otherwise any amount due to him from such licensee.

Recovery of penalties due under bond.

25. When any person, in compliance with any rule made hereunder, gives a bond for the performance of any duty or act, such duty or act shall be deemed to be a public duty, or an act in which the public are interested, as the case may be, within the meaning of the Indian Contract Act, 1872, section 74, and, upon breach of the condition of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land revenue.

SCHEDULE. Enactments repealed. Rep. by the Amending Act, 1891 (12 of 1891), s. 2 and Sch. I, Pt. I.