

# THE OPIUM ACT, 1876.

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### SCHEDULE.

[Price four annas and three pies.]



1876.]

## ACT No. XXIII OF 1876.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th of December 1876).

An Act to amend the law relating to Opium.

**W**HEREAS it is expedient to amend the law relating to opium; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Opium Act, 1876:" Short title.

It extends to the whole of British India; Local extent.

And it shall come into force on the first day of April 1877. Commencement.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. Repeal of enactments.

And in Acts No. XI of 1849, No. XXI of 1856 and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium. Amendment of Acts.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act. Amendment of Act VII of 1836, s. 1.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy: "Opium."

"Magistrate" means, in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when specially "Magistrate."

specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Import of  
opium.

4. No opium shall be imported, by land or by sea, into any part of British India unless—

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government ; or

(b) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India ; or

(c) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the import of opium, or of any kind of opium, by land, into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit ; and

(e) cancel such permission.

Export of  
opium.

5. No opium shall be exported by land or by sea from any part of British India unless—

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government ; or

(b) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port ; or

(c) such export is permitted under the power next hereinafter conferred :

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the export of opium, by land or by sea, from any specified part of British India on payment of

of



of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(e) cancel such permission.

- 6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

Customs-laws applied to opium.

7. The Governor General in Council may, by order notified in the *Gazette of India*,

Warehousing opium.

(a) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories subject to such Local Government, and

(b) cancel any such order.

- So long as such order remains in force, the Local Government may, by notification published in the official Gazette,

(c) 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 subject to such Government, or into any specified part thereof, or intended to be exported thence, and

(d) cancel any such declaration.

An order under clause (b) shall cancel all previous declarations under clause (c) of this section relating to places in the territories to which such order referred.

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

8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit, within the whole or any specified

Power to make rules as to poppy-cultivation, opium, &c.

specified part of the territories subject to such Government, all or any of the following matters:—

- (a) the cultivation of the poppy;
- (b) the manufacture of opium;
- (c) the possession of opium;
- (d) the transport of opium from one place to another within British India;
- (e) the importation or exportation of opium into or out of British India;
- (f) the sale of opium;

and to regulate, within the whole or any specified part of such territories, all or any of the matters aforesaid, and also

- (g) the safe custody of opium warehoused under section seven; 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 leviable on it be not paid within twelve months from the date of warehousing the same;
- (h) the disposal of all things confiscated under this Act;
- (i) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction shall be published in the local official Gazette, and shall thereupon have the force of law.

Prohibition  
of poppy-cul-  
tivation and  
possession,  
&c., of opium.

9. Unless in accordance with this Act, or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

- (a) cultivate the poppy;
- (b) manufacture opium;
- (c) possess opium;
- (d) transport opium from one place to another within British India;
- (e) import

(e) import or export opium into or out of British India; or

(f) sell opium.

**10.** Whoever, in contravention of this Act or of rules made and published under section eight,

Penalty for illegal cultivation of poppy, &c.

(a) cultivates the poppy, or

(b) manufactures opium, or

(c) possesses opium, or

(d) omits to warehouse opium when bound to do so under section seven, or

(e) transports opium from one place to another within British India, or

(f) imports or exports opium into or out of British India, or

(g) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

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.

**11.** In prosecutions under section ten, 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.

Presumption as to opium.

**12.** In any case in which an offence under section ten has been committed—

Confiscation of opium.

(a) the poppy so cultivated;

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

(c) where,

(c) where, in the case of an offence under clause (e) or (f) 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 ;

(d) where, in the case of an offence under clause (g) 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, and

(e) the vessels, packages and coverings in which any opium confiscated under the same 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 be liable to confiscation.

Order of confiscation by whom to be made.

**13.** 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.

Whenever confiscation is authorized by this Act, the officer adjudging 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 poppies or 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 Local 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



evidence (if any) which they produce in support of their claims.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

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

(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 all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(d) detain and search, and if he think 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.

15. Any officer of any of the said departments may

Power to seize opium in open places.

(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 twelve 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.

Power to detain, search and arrest.

16. All

Searches how made.

16. All searches under section fourteen or section fifteen 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 fourteen 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 fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

Issue of warrants.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local 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 house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

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

Disposal of person arrested or thing seized.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police-station; and every person arrested and thing seized under section nineteen shall be forwarded

without

without delay to the officer by whom the warrant was issued.

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 official superior.

Report of arrests and seizures.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Procedure in case of illegal poppy-cultivation.

Provided that, wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*), or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

Recovery of arrears of taxes and opium-revenue.

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.  
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849	Abkári Revenue of Calcutta ...	<p>In section 5, the word "opium."</p> <p>In section 6, the word "opium" and the last thirty-one words.</p> <p>In section 15, from and including the words "except in the case," to the end of the section.</p> <p>In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."</p>
Act III of 1852	Spirituous liquors, Bombay ...	Section 10, so far as it relates to opium.
Act XXI of 1856	Bengal Abkári Act ...	<p>In section 28, the word "opium."</p> <p>Sections 34, 51, 52, 53 and 87.</p> <p>In section 35, the words "or opium."</p> <p>In section 49, the words "except opium."</p> <p>Section 59, so far as it relates to opium.</p> <p>In section 75, the words "except opium," and from and including the words "opium seized," down to the end.</p> <p>In section 76, from and including the words "except opium," down</p>



ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—*continued.*

Number and year.	Subject.	Extent of repeal.
		to and including the words "each seer;" and from and including the words "or in," down to and including the words "each seer."
Act XIII of 1857	Cultivation of the poppy and manufacture of opium.	In paragraph 8 of section 90, the words "and opium." Section 2.
Act X of 1871	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19, the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3, from and including the words "as well as," down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium," down to and including the words "each ser," and from and including the words "or in," down to and including the words "each ser."
Act IV of 1872	The Panjáb Laws Act	... Section 49.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—concluded

Number and year.	Subject.	Extent of repeal.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873	Transshipment of goods ...	Section 7.
Act XVI of 1875	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bombay Reg. XXI of 1827.	Duty on opium ...	The preamble, from and including the words "with the combined," down to and including the words "be prohibited."
Bombay Reg. XX of 1830.	Malwa opium ...	Chapters I, II, III and IV. So much as has not been repealed.