

THE OPIUM ACT, 1878.

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SCHEDULE.

## ACT No. I OF 1878.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th January 1878.)

An Act to amend the law relating to Opium.

Preamble.	<b>W</b> HEREAS it is expedient to amend the law relating to opium; It is hereby enacted as follows:—
Short title.	1. This Act may be called “The Opium Act, 1878;”
Local extent.	It shall extend to such local areas as the Governor General in Council may, by notification in the <i>Gazette of India</i> , from time to time direct;
Commencement.	And it shall come into force in each of such areas on such day as the Governor General in Council in like manner directs in this behalf.
Repeal of enactments.	2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule:
Amendment of Acts.	And in Acts No. XI of 1849, No. XXI of 1856 and No. X of 1871, and in Bengal Act No. II of 1876, the words “intoxicating drugs” (wherever they occur) shall not include opium.
Amendment of Act VII of 1836, s. 1.	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.
Interpretation-clause.	3. In this Act, unless there be something repugnant in the subject or context—
“Opium.”	“Opium” includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:
“Magistrate.”	“Magistrate” means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a Magistrate of the

the first class or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class :

“ Import ” means to bring into the territories administered by any Local Government from sea, or from foreign territory, or from a territory administered by any other Local Government : “ Import.”

“ Export ” means to take out of the territories administered by any Local Government to sea, or to any foreign territory, or to any territory administered by another Local Government : “ Export.”

“ Transport ” means to remove from one place to another within the territories administered by the same Local Government. “ Transport.”

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— Prohibition of poppy-cultivation and possession, &c., of opium.

- (a) cultivate the poppy ;
- (b) manufacture opium ;
- (c) possess opium ;
- (d) transport opium ;
- (e) import or export opium ; or
- (f) sell opium.

5. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the local 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 :— Power to make rules to permit such matters.

- (a) the cultivation of the poppy ;
- (b) the manufacture of opium ;
- (c) the possession of opium ;
- (d) the transport of opium ;
- (e) the importation or exportation of opium ; and
- (f) the

(f) the sale of opium, and the farm of duties leviable on the sale of opium by retail :

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 section six.

Duty on  
opium im-  
ported by  
land.

6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, impose such duty as he thinks fit on opium or on any kind of opium imported by land into British India or into any specified part thereof, and may alter or abolish any duty so imposed.

Warehousing  
opium.

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

(a) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories administered by 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 administered by 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 refers.

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

Power to  
make rules  
relating to  
warehouses.

8. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the local Gazette,

make

make rules consistent with this Act to regulate 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 or fees leviable on it be not paid within twelve months from the date of warehousing the same.

9. Any person who, in contravention of this Act, or of rules made and notified under section five or section eight,

Penalty for illegal cultivation of poppy, &c.

(a) cultivates the poppy, or

(b) manufactures opium, or

(c) possesses opium, or

(d) transports opium, or

(e) imports or exports opium, or

(f) sells opium, or

(g) 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 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.

10. In prosecutions under section nine, 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 in prosecutions under section nine.

11. In any case in which an offence under section nine has been committed—

Confiscation of opium.

(a) the poppy so cultivated;

(b) the

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

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

Order of  
confiscation  
by whom to  
be made.

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.

Whenever confiscation is authorized 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 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

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 Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local Gazette, make rules consistent with this Act to regulate—

Power to make rules, regarding

(a) the disposal of all things confiscated under this Act; and

disposal of things confiscated

(b) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

and rewards.

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 eleven 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

to be liable to confiscation under section eleven or any other law for the time being in force relating to opium,

Power to detain, search and arrest.

(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 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.

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 building or vessel 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.

20. Every



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 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. 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 section shall apply to such cultivation.

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

Recovery of arrears of fees, duties, &c.

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

may be recovered from the person primarily liable to pay the same to the Government or from his surety

(if

(if any) as if it were an arrear of land-revenue.

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

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 Local 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:

Provided that the execution of any process issued by such Collector, Deputy Collector 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.

## SCHEDULE.

## ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject or title.	Extent of repeal.
Act XI of 1849	Abkari 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 Abkari 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 to and including the words "each seer;" and from and including the words "or in,"</p>

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

Number and year.	Subject or title.	Extent of repeal.
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	down to and including the words "each ser." 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.
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.

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

Number and year.	Subject or title.	Extent of repeal.
Act XXIII of 1876.	To amend the law relating to Opium.	The whole Act.
Act VI of 1877.	For postponing the day on which the Opium Act, 1876, is to come into force.	The whole Act.

*Act of the Lieutenant-Governor of Bengal in Council.*

Number and year.	Subject.	Extent of repeal.
Act II of 1876	To amend Act XI of 1849, Act XXI of 1856, and Act IV (B. C.) of 1866.	<p>In section 3, in the section substituted for section 33 of Act XI of 1849, the words "except opium," and from and including the words "confiscated opium," down to and including the words "general order."</p> <p>In section 3, in the section substituted for section 34 of Act XI of 1849, the words "except in the case of opium;" and from and including the words "and in the case of opium," down to and including the words "similarly distributed."</p> <p>In section 10, in the section substituted for section 75 of Act XXI of 1856, the words "except opium," and from and including the words "confiscated opium," down to and including the words "general order."</p> <p>In section 10, in the section substituted for section 76 of Act XXI of 1856, the</p>

## SCHEDULE—concluded.

Number and year.	Subject.	Extent of repeal.
		words "except in the case of opium," and from and including the words "and in the case of opium," down to and including the words "similarly distributed."

*Bombay Regulations.*

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