

The East Punjab Opium Smoking Act, 1948¹

(EAST PUNJAB ACT NO. 25 OF 1948)

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An Act to provide for the control of the practice of opium smoking and to secure ultimate prohibition of opium smoking in the East Punjab.

It is hereby enacted as follows—

1. *Short title, extent and commencement*—(1) This Act may be called the East Punjab Opium Smoking Act, 1948.

1. Extended to the Union Territory of Delhi vide Govt. of India Notification No. 8/2/49-Judl. Dated 2-3-1949.

(2) It extends to the whole of the Union Territory of Delhi.

(3) It shall, with the exception of Section 7, come into force at once; and Section 7 shall come into force after four months from the coming into force of the remainder of the Act.

2 *Repeal*—The Punjab Opium Smoking Act, 1923, is hereby repealed.

3. *Definitions*—In this Act unless there is anything repugnant in the subject or context,—

(a) "Opium" has the same meaning as in the Opium Act, 1878, and includes prepared opium;

(b) "place" includes a building, house, shop, pool, chhapar enclosure, tent vessel, raft and vehicle and any part thereof;

(c) "prepared opium" means any product or admixture of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "register" means the register opened under sub-section (i) of Section 4 of this Act;

(f) "registered medical practitioner" means any person registered under the provisions of the Punjab Medical Registration Act, 1916; and

(g) "registered smoker" means any person registered under Section 5 of this Act.

4. *Opening and maintenance of the register*—(1) The Chief Commissioner shall cause to be opened a register to be called the Delhi Opium Smokers Register, which shall be prepared and maintained by such authority and in such manner and shall contain such particulars and shall be in such form as may be prescribed.

(2) The register shall be a public document within the meaning of the Indian Evidence Act, 1872.

(3) The register shall be closed one year after this Act comes into force and no entry shall be made therein after such period.

5 *Persons who may be registered*—Any person who produces a certificate in the prescribed form from a registered medical practitioner to the effect that he is in the habit of opium smoking and that he cannot give up opium smoking without detriment to his health may apply in the prescribed form to have his name entered in the register, and, if he satisfies the prescribed authority that he is not under the age of twenty five years, shall, subject to the provisions of sub-section (3) of Section 4 be entitled to be registered, and the prescribed authority shall thereupon enter his name in the register.

6. *Consequences of registration*—(1) A registered smoker shall, subject to such conditions as may be prescribed, be entitled to manufacture, prepare opium not exceeding six *mashas* and to keep it in his possession for personal use only.

(2) Any registered smoker who has in his possession prepared opium in contravention of the provisions of sub-section (1) shall, on conviction before a competent criminal court, be punished with imprisonment which may extend to three months or with fine which may extend to two hundred rupees or with both.

7. *Punishment for manufacture, possession, smoking or use of prepared opium by a person other than a registered smoker*—Any person other than a registered smoker who—

- (a) manufactures prepared opium; or
- (b) has in his possession any prepared opium; or
- (c) has in his possession any pipes or other utensils or apparatus used in connection with the manufacture or smoking of prepared opium; or
- (d) smokes or otherwise uses prepared opium;

shall on conviction before a competent criminal court be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

8. *Punishment for allowing places to be used for the commission of an offence or for selling or dealing in prepared opium*—Whoever—

(a) being the owner or occupier or having the use of any place, knowingly permits it to be used by any person other than a registered smoker for manufacturing or smoking prepared opium; or

(b) sells or otherwise deals in prepared opium, shall, on conviction by a competent criminal court, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

9. *Power to issue warrants*—Any District Magistrate or Sub-Divisional Magistrate who, upon information received and after such enquiry (if any) as he considers necessary, has reason to believe that any place is being or is likely to be used for the commission of an offence punishable under Section 7 or 8 may issue a warrant to an officer of the Excise Department, not below the rank of a Sub-Inspector, empowering him—

(a) to enter such place by day or night with any persons whose assistance such officer may consider necessary;

(b) to search all parts of such place in which such officer has reason to believe that any opium or appliance for the preparation of opium or for opium smoking is concealed and all or any persons whom he may find in such place;

(c) to arrest all persons whom such officer may find in such place, whether they are actually engaged in smoking opium or not;

(d) to seize all opium and appliances for opium smoking or for the manufacture of opium which may be found in such place.

10. *Power of entry, search seizure, arrest without warrant*—(1) Any

officer of the Excise Department, not below the rank of Sub-Inspector, who has reason to believe from personal knowledge or upon information given by any person and taken down in writing that an offence punishable under Section 7 or Section 8 has been, is being, or is likely to be committed, or that an article liable to confiscation under this Act is kept or concealed, in any place, may between sunrise and sunset—

(a) enter into any such place;

(b) in case of resistance, break open any door and remove any such obstacle to such entry;

(c) seize all opium and appliances for opium smoking or for the manufacture of opium and any other article which he has reason to believe to be liable to confiscation under Section 15 and which may be found in such place;

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable under Section 7 or 8:

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender he may enter and search such place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

11. *Searches now made*—The provisions of the Code of Criminal procedure, 1898 shall apply in so far as they are not inconsistent with the provisions of Sections 9 and 10 to all warrants issued and arrests and searches made under these sections.

12. *Provision for bail and security*—When any person arrested under this Act is prepared to furnish bail he shall be released on bail or in the discretion of the officer making the arrest on his bond.

13. *Procedure after arrest and seizure*—(1) whenever any person makes any arrest or seizure under this Act he shall within 48 hours next after such arrest or seizure make full report giving the particulars of such arrest and seizure to his immediate official superior, and shall unless bail or as the case may be, a bond, has been accepted under Section 12, take or send the person arrested or the article seized without delay, if the arrest or seizure was made—

(a) under a warrant issued under Section 9, to the authority by whom the warrant was issued; or

(b) under Section 10, to the officer-in-charge of the nearest Police Station.

(2) The authority or officer to whom any person or article is forwarded under sub-section (1) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

14. *Officer of certain departments to help excise officer*—Every officer of the Police and Land Revenue Departments shall upon notice given or request made, be legally bound to give reasonable aid to any Excise Officer in carrying out the provision of this Act.

15. *Liability of illicit articles to confiscation*—On the conviction of any person for any offence under this Act the court may order that any opium or any instrument or appliance in respect of or by means of which such offence has been committed, or any receptacle package or covering in which such opium, instrument or appliance has been found and any other contents of such receptacle, package or covering shall be confiscated.

16. *Jurisdiction to try offences*—No Magistrate other than a Magistrate of the first class shall try any offence punishable under this Act.

17. *Bar to certain suits*—No suit shall lie in any civil court against the Chief Commissioner or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act.

18. *Power to make rules*—(1) The Chief Commissioner may make such rules as appears to it to be necessary or expedient for putting into effect the provision of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the authority by whom and the manner in which the register shall be prepared and maintained;
 - (b) the form and contents of the register;
 - (c) the form of application under Section 5 and the manner in which and the authority to whom such application shall be submitted;
 - (d) the form of medical certificate;
 - (e) the conditions and restrictions subject to which a registered smoker may manufacture, possess or smoke prepared opium;
 - (f) regulating the disposal of things confiscated under Section 15; and
 - (g) the payment of rewards out of fines imposed under this Act.
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