

Assam Opium (Amendment) Act, 1933

01 of 1933

[07 June 1933]

CONTENTS

1. Short title
2. Amendment of section 9 of Act I of 1878
3. Insertion of new sections 9A, 9B, 9C, 9D, 9E, and 9F
4. Amendment of section 14 of Act I of 1878
5. Amendment of section 15 of Act I of 1878
6. Insertion of new section
7. Section 7

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PREAMBLE

An Act to amend the Opium Act 1878

Whereas it is expedient to amend the Opium Act, 1878 (Act I of 1878), in its application to Assam for the purposes hereinafter appearing;

It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Assam Gazette, 1932, Part V, page 59; for Report of Select Committee, see Assam Gazette, 1932, Part V, pages 73-76; for Proceedings in Council, see Assam Gazette, 1932, Part VI, pages 808, 825-836, 1122, Assam Gazette, 1933, Part VI, page 81.

1. Short title :-

This Act may be called the Assam Opium (Amendment) Act, 1933.

2. Amendment of section 9 of Act I of 1878 :-

In section 9 of the Opium Act, 1878 (Act I of 1878) (hereinafter referred to as the principal Act)--

(i) for the words "on conviction before a Magistrate" and "the

convicting Magistrate" the words "on conviction" and "the convicting Court" respectively, shall be substituted.

(ii) for the words "for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both" there shall be substituted the words "which may extend to two years, or with fine or with both" and

(iii) for the words "six months" the words "one year" shall be substituted.

3. Insertion of new sections 9A, 9B, 9C, 9D, 9E, and 9F :-

After section 9 of the principal Act, the following new sections shall be inserted, namely:--

"9A. Enhanced punishment after previous conviction.

Whoever, having been convicted of an offence punishable under section 9 is again guilty of an offence under that section shall be subject for every such subsequent offence to imprisonment which may extend to four years or to fine.

9B. Security for abstaining from commission of certain offences.

(1) Whenever any person is convicted of an offence punishable under section 9 and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of such offence, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(2) The bond shall be in the form contained in the schedule and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, in so far as they are applicable, apply to all matters connected with such bond and the non-execution thereof as if it were a bond to keep the peace ordered to be executed under section 106 of that Code (Act V of 1898).

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court, or by the High Court when exercising its powers of revision.

9C. Punishment for allowing premises to be used for the commission of an offence.

Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle or place, knowingly permits it to be used for the commission by any other person of an

offence punishable under section 9 shall be liable to the punishment provided in that section.

9D. Import, export, transport, manufacture, sale or possession by one person on account of another.

(1) When any opium has been imported, exported, transported or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such import, export, transport, or sale was, or that such possession is, on his account, the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported, or sold by, or to be in possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who imports, exports, transports, sells, or has possession of opium on account of another person from liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of opium.

9E. Abetments.

Whoever attempts to commit an offence and in such attempt does any act towards the commission of the offence punishable under section 9 or section 9C shall be liable to punishment provided for the offence.

9F. Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code (Act XLV of 1860), be punished with the punishment provided for the offence ".

4. Amendment of section 14 of Act I of 1878 :-

In section 14 of the principal Act,--

(i) for the words "between sunrise and sunset" there shall be substituted the words "whether by day or by night", and

(ii) in clause (c) after the word "opium" where it occurs for the second time the following words shall be added, namely:--

Eastern Bengal and Assam Act I of 1910.

"and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Eastern Bengal and Assam Excise Act, 1910, or under the Dangerous Drugs Act, 1930 (Act II of 1930)".

5. Amendment of section 15 of Act I of 1878 :-

In section 15 of the principal Act--

(i) after the word "opium" at the end of clause (a) there shall be added the following words, namely:--

"and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Eastern Bengal and Assam Excise Act, 1910, or under the Dangerous Drugs Act, 1930 (Act II of 1930);" and

Eastern Bengal and Assam Act I of 1910.

(ii) in clause (b) for the words "if such person has opium in his possession", the words "if the search confirms such belief" shall be substituted.

6. Insertion of new section :-

After section 20 of the principal Act the following new section shall be inserted, namely:--

"20A. Power to invest Excise officers with powers of an officer in charge of a police station.--

(1) The [Provincial Government]¹ may invest any officer of the Excise Department, not below the rank of Sub-Inspector of any class of such officers, with the powers of an officer in charge of a police station for the investigation of offences under this Act.

(2) Any confession made to or whilst in the custody of any officer invested under sub-section (1) with the powers of an officer in charge of a police station shall be deemed to be a confession made to or whilst in the custody of a police officer".

1. Substituted by the A.O. for "L. G.".

7. Section 7 :-

"SCHEDULE

Bond to abstain from the commission of offences under the Assam Opium (Amendment) Act, 1932 (See Section 9B.)

Whereas I (name), inhabitant of (place) have been called upon to enter into a bond to abstain from the commission of an offence under section 9 of the Indian Opium Act, 1878, for the term of I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to[Government]¹, the sum of rupees

	20, 21	22
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Dated this

(Signature)

(Where a bond with securities is to be executed, add--)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of an offence under section 9 of the Indian Opium Act, 1878, during the said term; and, in case of his making default, therein, we bind ourselves, jointly and severally, to forfeit to[Government]1, the sum of rupees

Dated this	day of	19.
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1. Subs. by A.O. 1950.