

Assam Opium Smoking Act, 1927

03 of 1927

[09 November 1927]

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PREAMBLE

An Act to provide for the prohibition of opium smoking
Whereas It is Expedient to Prohibit The Smoking of Opium;
And whereas the previous sanction of the Governor General to the passing of this Act, as required by sub-section (3) of section 80A of

the Government of India Act, has been obtained (5 and 6 Geo. V., c. 61; and 7. Geo. V., c. 37; 9 and 10 Geo. V., c. 101);

It is hereby enacted as follows:--

1. For Statement of Objects and Reasons see Assam Gazette: Part V, 1927, P. 7, for Report of the Select Committee see ibid pp. 19 to 20; for proceedings in Council, see Assam Gazette Part VI, 1927, pp. 328, 334, 811, 991 to 993.

1. Short title and extent :-

(1) This Act may be called the Assam Opium Smoking Act, 1927.

(2) It extends to the whole of Assam, excluding the [the tribal areas specified in the Table appended to paragraph 20 of the Sixth Schedule to the Constitution (5 and 6 Geo. V., c. 61; and 7 Geo. V., c. 37; 9 and 10 Geo. V., c. 101).]³

Provided that the [Provincial Government]² may by notification extend the Act to the aforesaid territories or any parts thereof with effect from such date or dates as may be specified in the notification.¹

1. . It has been extended to that portion of the Khasi and Jaintia Hills district which has been declared to be a backward tract under section 52A of the Government of India Act., see Notification No. 2897E., dated 17th October, 1928 in the Manual of Local Rules and Orders, Vol. III.

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

3. Subs. by A.O. 1950.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

(a) "Opium" includes [prepared opium which means]² chandu, madak, opium dross or the scrapings from the opium pipe and every other preparation or admixture of opium which may be used for smoking;

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

(c) "Collector" means the Chief officer in charge of the revenue administration of a district, and includes any officer whom the [Provincial Government]¹ may, by notification, declare or appoint to be a Collector for the purposes of this Act.

1. Substituted by the A.O. for "L.G."
2. Inserted by Assam Act II of 1934.

3. Penalty for smoking opium :-

It shall be unlawful for any person to smoke opium. Any person smoking opium shall be punishable, in the case of a first conviction, with fine which may extend to fifty rupees and, in the case of a second or subsequent conviction, shall be liable to imprisonment of either description for a term which may extend to one month, in addition to fine which may extend to fifty rupees.

4. Penalty for smoking opium in company :-

If two or more persons smoke opium in company, each of them shall, irrespective of their common object, be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Explanation.--A man and his wife smoking opium together shall not be deemed to be smoking in company within the meaning of this section.

5. Opium smoking assembly :-

An assembly of two or more persons is designated an opium-smoking assembly if the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation 1.--An assembly which was not an opium-smoking assembly when it assembled may subsequently become such an assembly

Explanation 2--A man and his wife shall not be deemed to be an opium-smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

6. Member of opium-smoking assembly :-

Whoever being aware of facts which render an assembly an opium-smoking assembly intentionally joins that assembly for the purpose of smoking opium, or of preparing opium for smoking or continues therein for that purpose shall be deemed to be a member of that

assembly.

7. Presumption raised by presence of opium and opium-smoking apparatus :-

The presence of any opium and of any pipes or apparatus for the smoking of opium or for the preparation of opium for smoking purposes in any place where two or more persons are assembled shall be held sufficient to raise a presumption that such persons have assembled at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

8. Penalty for being member of opium smoking assembly :-

Whoever is a member of an opium-smoking assembly shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

9. Penalty for opening, keeping or having charge of place used for such assembly :-

Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purposes of an opium-smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. Penalty for dealing in opium dross :-

[Whoever possesses or deals in prepared opium shall be punishable with imprisonment which may extend to two years or with fine or with both.]¹

1. Section 10 has been substituted by Assam Act II of 1934.

11. Enhancement of punishment on second conviction :-

Whoever having been previously convicted of an offence under section 8, 9 or 10 is again convicted of an offence under either of these sections, shall be liable to twice the punishment which might be imposed on a first conviction.

12. Search warrants and power to search :-

If a magistrate of the first class upon information received and after such enquiry (if any) as he considers necessary has reason to believe that the smoking of opium is going on or is permitted in any place or that any place is used for the purposes of an opium-smoking assembly, he may after recording his reasons issue a warrant to an officer of the Excise Department not below the rank of [a Sub-Inspector]¹ or of the Police Department not below the rank of a Sub-Inspector or officer in charge of a police station authorising 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 any apparatus 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 any person found in such place whom he has reason to believe to be guilty of an offence under this Act;
- (d) to seize all opium and apparatus for opium-smoking or for the preparation of opium which may be found in such place.

13. Application of the Code of Criminal Procedure, 1898 to warrants and searches :-

The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), as amended, shall apply to the execution of warrants issued and searches made under section 12.

14. Report to be made in case of arrest or seizure :-

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 particulars thereof to his immediate official superior; and every person arrested and thing seized shall be forwarded without unnecessary delay and subject to the provisions herein contained as to bail to the officer by whom the warrant was issued, or to the nearest police station.

15. Bail and security :-

When any person arrested under this Act is prepared to furnish bail he shall be released on bail or, at the discretion of the officer

making the arrest on his own bond.

16. Aid to Excise officers :-

Every officer of the Police and Land Revenue Departments, every village headman or gaonbura and every village chaukidar shall be bound to give reasonable aid to any Excise or Police officer in carrying out the provisions of this Act upon notice given and request made.

17. Confiscation and destruction of opium and things seized :-

On the conviction of any person for an offence under this Act the Court may order that any opium or any instrument or apparatus 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 apparatus was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

18. Cognizance of offences :-

No magistrate shall take cognizance of an offence punishable under this Act except on the complaint or report of the Collector or an officer of the Excise Department not below the rank of [a Sub-Inspector]¹ or of the Police Department not below the rank of a Sub Inspector or of a mauzadar.

1. The words "Sub-Inspector" were substituted for the words "an Inspector" by Assam Act V of 1932.

19. Bar of certain suits :-

No suit shall lie in any civil court against the [Crown]¹ or any Collector or officer of the Excise or Police Department or a mauzadar for damages for any act in good faith done or ordered to be done in pursuance of this Act.

1. Substituted by the A.O. for "Secretary of State for India in Council."

20. Limitation of suits and prosecution :-

No civil court shall try any suit against the [Crown]¹ or any Collector or officer of the Excise or Police Department or a

mauzadar in respect of anything done or alleged to have been done in pursuance of this Act and, except with the previous sanction of the [Provincial Government]², no magistrate shall take cognizance of any charge made against any person under this Act, unless the suit or prosecution is instituted within one year in the case of a suit and six months in the case of a prosecution after the date of the act complained of.

1. Substituted by the A.O. for "Secretary of State for India in Council."

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

21. Tender of pardon to accused person turning approver :-

(a) Whenever two or more persons are prosecuted for any offence under this Act, the magistrate may, if, for reasons to be recorded by him, he thinks fit, tender to any accused a pardon on condition of his making a full and true disclosure of all facts connected with the offence.

(b) Such accused person shall, on accepting the tender, be a competent witness in the case and shall not be liable to punishment so long as the pardon remains in force.

22. Power to make rules :-

(1) The [Provincial Government]¹ may make rules 3 to carry out the objects of this Act

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

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

(b) prescribe and regulate the payment of rewards [to officers and informers]².

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

2. Substituted by the A.O. for "out of fines imposed under this Act."