

## **Bengal Opium Smoking Act, 1932**

**10 of 1932**

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## **Bengal Opium Smoking Act, 1932**

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An Act to provide for the control of the practice of smoking prepared opium. WHEREAS it is expedient to control the practice of smoking prepared opium in Bengal ; AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act; It is hereby enacted as follows :

### **1. Short title, local extent and commencement :-**

- (1) This Act may . be called the Bengal Opium Smoking Act, 1932.
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force in such local areas and on such dates as the State Government may, by notification, direct, and the State Government may, by notification, withdraw this Act from any local area.

### **2. Definitions :-**

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

- (1) "notification" means a notification published in the Official Gazette
- (2) "prepared opium" means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and includes the dross or other residue remaining after opium is smoked;
- (3) "registered" means registered under the provision of this Act as a smoker of prepared opium ;
- (4) "place" includes a building, house shop, booth, tent, vessel, raft and vehicle and any part thereof;
- (5) "Collector" means
  - (i) in the Calcutta district, any person appointed under clause (b) of section 7 of the Bengal Excise Act, 1909, to exercise all the powers and to perform all the duties of the Collector in that district under that Act; and
  - (ii) elsewhere, the chief officer in charge of the revenue administration of a district.

### **3. Smoking of prepared opium :-**

Whoever, not being registered, smokes prepared opium shall be punished for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and for every such subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

#### **4. Presumption of smoking prepared opium in certain cases**

**:-**

If any person, not being registered, is found in possession of prepared opium or of any apparatus used for the smoking of, or in the manufacture of, prepared opium, it shall be presumed, until the contrary is proved, that such person smokes prepared opium.

#### **5. Manufacture, possession or sale of prepared opium :-**

Whoever manufactures, possesses, sells, keeps or exposes for sale or attempts to sell any prepared opium, or assists any other person, whether an opium smoker or not, in the manufacture of prepared opium shall be punished with imprisonment which may extend to two years, or with fine which may extend to two thousand rupees, or both.

Exception. Manufacture or possession for his own use by a registered opium smoker of prepared opium not exceeding one tola in weight or such other lesser quantity as the [State Government] may, by notification direct, shall not be an offence under this section.

#### **6. Keeping or having charge of place used for smoking prepared opium :-**

Whoever opens, keeps or uses any place or permits, any place to be used, for the purpose of enabling two or more persons, whether registered or not, to meet together to smoke prepared opium or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the said purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

#### **7. Smoking of prepared opium in assembly of two or more :-**

If two or more persons, whether registered or not, assemble in any place for the purpose of smoking prepared opium, each such person shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

#### **8. Presumption from presence of prepared opium, etc., in certain places :-**

If any prepared opium or any apparatus used for smoking, or in the manufacture of, prepared opium is found in any place where two or more persons, whether registered or not, are assembled, it shall be

presumed until the contrary is proved that the place is used, and that the persons are present in such place, for the purpose of smoking prepared opium.

**9. Power of State Government to make rules for registration of opium smokers :-**

The [State Government] may, by notification, make rules providing for

(1) the registration of persons who are opium smokers and for their identification, and

(2) the method of registration, the fee payable for such registration, and the form of the register and the maintenance thereof: Provided that no person shall be registered as an opium smoker who is below the age of twenty-five years :

Provided also that, subject to such exceptions as the [State Government] may by rule prescribe, no person shall be registered as an opium smoker after a date to be fixed in this behalf, by notification, by the [State Government].

**10. Power to enter and search any place and to seize articles and to arrest persons found in such place :-**

If a Collector, a Presidency Magistrate, or a Magistrate of the first class, upon information received and after such inquiry, if any, as he considers necessary, has reason to believe that any place is used for the commission of an offence under this Act, he may, after recording the substance of the information, issue a warrant to an Excise Officer not below the rank of Sub-Inspector authorizing him

(a) to enter such place by day or night with such assistants as such officer may consider necessary ;

(b) to search all parts of such place in which such officer has reason to believe that any prepared opium or any apparatus for the smoking of such opium or for the manufacture thereof, 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 ; and

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

**11. Application of the Code of Criminal Procedure, 1898, to**

## **warrants and searches under section 10 :-**

(1) The provisions of the Code of Criminal Procedure, 1898, shall apply to the execution of warrants and to searches made under section 10.

(2) For the purposes of the said provisions of the said Code, a Collector shall be deemed to be a court.

## **12. Report to be made in case of arrest or seizure :-**

Whenever any officer makes an arrest or seizure under this Act, he shall without delay, and in any case within twenty-four hours, forward every person arrested and every thing seized with full particulars of the arrest or seizure to the Collector or to the Magistrate, as the case may be, by whom the warrant was issued. In case of an arrest or seizure under a warrant issued by the Collector the said officer shall, unless the Collector proceeds under section 13, within the aforesaid period of twenty-four hours, forward the person or thing produced before the Collector to a Magistrate having jurisdiction to try the case together with full particulars of the arrest or seizure. 13. Powers of Collector to investigate offences.

(1) A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to try.

(2) A Collector may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise any of the powers conferred upon a police officer making an investigation, or upon an officer in charge of a police-station, by sections 160 to 171 of the Code of Criminal Procedure, 1898.

(3) A Collector may without preference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any persons concerned or supposed to be concerned, in any offence which he has investigated.

(4) As soon as an investigation by a Collector has been completed if it appears to him that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the Collector shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898, be deemed to be a police report)

to a Magistrate having jurisdiction to try the case and empowered to take cognizance of offences on police reports.

**14. Bail and security :-**

Whenever any person arrested under this Act is prepared to furnish bail to the satisfaction of the officer making the arrest, he shall be released on bail, or at the discretion of the officer making the arrest on his own bond.

**15. Aid to Excise Officer :-**

Every officer mentioned in section 71 of the Bengal Excise Act, 1909. shall be bound to give reasonable aid to an Excise Officer in carrying out the provisions of this Act upon request made by such officer.

**16. Power of Magistrate to confiscate or destroy articles seized :-**

On the conclusion of a trial for an offence under this Act the Magistrate may order that any prepared opium and any instrument or appliance in respect of, or by means of which such offence has been committed, or appears to have been committed, or any receptacle, package or covering in which such prepared opium, instrument or appliance was found, and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

**17. Offences triable by Presidency Magistrate or Magistrate of the first class :-**

No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try "any offence punishable under this Act.

**18. Cognizance of offences :-**

No Magistrate shall take cognizance of any offence under this Act except on the complaint or report of an Excise Officer not below the rank of a Sub-Inspector.

**19. Indemnity :-**

No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.