

## **POISONS ACT, 1919**

**12 of 1919**

**[[3rd September, 1919]]**

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### **SCHEDULE 1 :- SCHEDULE**

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STATEMENT OF OBJECTS AND REASONS "The Poisons Act of 1904 was intentionally limited in scope so as to restrict interference with legitimate industries as much as possible. As the result of these limitations however, the control afforded by the Act over the traffic in poisons has been proved by experience to be inadequate. In 1910 and 1914, the Government of U.P. suggested certain radical amendments in the Act to remedy this defect. The suggestions were referred to Local Governments and Administrations for opinion. The replies received showed a general, agreement in favour of the suggestions of the Government of the United Provinces. A new Bill has accordingly been prepared which will repeal the Poisons Act of 1904. The more important features of the Bill are - (1) The substitution of a single clause (clause 2) for section 2, Section 4 and Section 6 of the existing Act with the

object of empowering Local Governments to regulate the possession for sale and the sale, whether wholesale or retail, of any specified poison anywhere within their respective territories, instead of in municipalities and cantonments only. (2) All expansion of the provisions of section 3 and Section 5 of the Act so as to make them cover, not only white arsenic but any poison specified in notifications or issued in accordance with those sections (Clauses 3 and 4). (3) The exclusion of the classes (b), (c) and (d) mentioned in S. 10(1) of the Act with the effect of reducing the number of exempted classes to one, viz., medical and veterinary practitioners. (4) The addition of a clause (Cl. 9(3)(b)) empowering Government to exclude individual members of the exempted class (i.e. medical and veterinary practitioners) for the benefit of the exemption conferred by Section 10(1) of the Act. The opportunity has also been taken to make some verbal alterations in the Act; and Section 11, which is spent has been omitted." -Gaz. of Ind., 1919, Part V, page 22. Amending Act 47 of 1958.- The Poisons Act, 1919, which deals with the importation, possession and Sale of Poisons, does not extend to the territories comprised in the former Part B States. After the passing of States Reorganisation Act, 1956, it was found that in certain States like Andhra Pradesh and Madras, the Central Poisons Act was in force in the greater part of the State, but local Acts like the Hyderabad Poisons Act and the Travancor-Cochin Poisons Act, continued to be in force in other parts which were included as a result of the reorganisation. In consultation with the State Governments it is now proposed, in the interests of uniformity, to extend the Central Poisons Act to the territories comprised in the former Part B States and to repeal any corresponding laws in force therein. The Bill seeks to achieve this object -Gaz. of India, 17-9-1958, Pt. II, S. 2, Ext.. p. 999.

### **1. Short title and extent :-**

(1) This Act may be called The Poisons Act, 1919.

<sup>1</sup> [(2) It extends to the whole of India : Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the importation into India of any specified poison.]

1. Substituted for sub-section (2) by the Poisons (Amendment) Act, 1958 (47 of 1958), Section 2 (17-12-1958).

### **2. Power of the State Government to regulate possession**

## **fur sale and sale of any poison :-**

(1) <sup>1</sup>[\* \* \*] The <sup>2</sup> [State Government] may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

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

(a) the grant of licences to possess any specified poison for sale, wholesale or retail, and fixing of the fee (if any) to be charged for such licences;

(b) the classes of persons to whom alone such licences may be granted;

(c) the classes of persons to whom alone, any such poison may be sold;

(d) the maximum quantity of any such poison which may be sold to any one person;

(e) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;

(f) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale, and

(g) the inspection and examination of any such poison when possessed for sale by any such vendor.

1. The words 'subject to the control of the Governor-General in Council' were omitted by A.O., 1937 (1-4-1937).

2. Substituted for the words 'Provincial Government' by A.O., 1950.

## **3. Power to prohibit importation into the States of any poison except under licence :-**

The <sup>1</sup>[Central Government] may, by notification in the <sup>1</sup>[Official Gazette], prohibit except under and in accordance with the conditions of a licence, the importation into <sup>3</sup>[India] <sup>4</sup> [across any customs frontier defined by the Central Government] of any specified poison, and may by rule regulate the grant of licences.

1. Substituted for the words 'Governor-General-in Council' and 'Gazette of India', respectively by A.O., 1937.

3. Substituted for the words 'the States' by the Poisons (Amendment) Act, 1958 (47 of 1958), Section 3 (17-12- 1958).

4. Inserted by A.O., 1937 (1-4-1937).

#### **4. Power to regulate possession of any poison in certain areas :-**

(1) The <sup>1</sup>[State Government] <sup>2</sup>[\* \* \*] may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(2) In making any rule under sub-section (1), the <sup>1</sup> [State Government] may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

1. Substituted for the words 'Provincial Government' by A.L.O., 1950.

2. The words 'subject to the control of the Governor-General-in-Council' were omitted by A.O., 1937 (1-4-1937).

#### **5. Presumption as to specified poisons :-**

Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

#### **6. Penalty for unlawful Importation, etc :-**

(1) Whoever-

(a) commits a breach of any rule made under section 2 , or

(b) imports <sup>1</sup>[\* \* \*] without a licence <sup>2</sup>[into <sup>3</sup> [India] across a customs frontier defined by the Central Government any poison the importation of which is for the time being restricted under section 3 , or

(c) breaks any condition of a licence for the importation of any poison granted to him under section 3 , shall be punishable,-

(i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found shall be liable to confiscation.

1. The words 'into British India' were omitted by A.O., 1937 (1-4-1937).

2. Inserted, by A.O., 1937 (1-4-1937).

3. Substituted for 'the States' by the Poisons (Amendment) Act, 1958 (47 of 1958), Section 3 (17-12-1958).

## **7. Power to issue search warrant :-**

(1) The District Magistrate, the Sub-divisional Magistrate and, in a presidency-town, the Commissioner of Police, may issue warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of Code of Criminal Procedure, 1898, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

## **8. Rules :-**

(1) In addition to any other power to make rules hereinbefore conferred <sup>1</sup>[\* \* \*] the <sup>2</sup>[State Government] may make rules generally to carry out the purposes and objects of this Act.

(2) Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.

(3) All rules made by the <sup>3</sup>[Central Government] or by the <sup>2</sup>[State Government] under this Act shall be published" in the <sup>3</sup>[Official Gazette] and on such publication shall have effect as if enacted in this Act.

<sup>6</sup> [(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(5) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

1. The words 'and subject to the control of the Government-General-in-Council' were omitted by A.O., 1937 (1-4- 1937).
2. Substituted for 'Provincial Government' by A.L.O., 1950.
3. Substituted for the words 'Governor-General-in-Council' and 'Gazette of India' by A.O.. 1937.
6. Inserted by Delegated Legislation Provisions (Amendment) Act (4 of 1984), S. 2, Sch., (15-5-86).

## **9. Savings :-**

(1) Nothing in this Act or in any licence granted on rule made thereunder shall extend to, or interfere with; anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.

(2) Notwithstanding anything hereinbefore contained the. <sup>1</sup>[State Government] may <sup>2</sup>[\* \* \*] by general or special order declare that all or any of the provisions of this Act <sup>3</sup> [except section 3 ] shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.

(3) The authority on which power to make rules under this Act is conferred may, by general or special order, either wholly or partially-

(a) exempt from the operation of any such rules, or

(b) exclude from the scope of the exemption provided by subsection (1), any person or class of persons wither generally or in respect of any poisons specified in the order.

1. Substituted for the words 'Provincial Government' by A.L.O.,

1950.

2. The words 'in its discretion' were omitted by A.O., 1937 (1-4-1937).

3. Inserted by A.O., 1937.

**10. Repeal of Act 1 of 1904 :-**

Repealed by the Repealing Act, 1927 (12 of 1927).]

SCHEDULE 1

SCHEDULE

1. The Cochin Poisons Act. 1111 (30 of 1111). 2. The (Hyderabad) Persons Act (4 of 1322 F.). 3. The Madhya Bharat Poisons Act. 2008 (5 of 2008 Smt.). 4. The Mysore Poisons Act, 1910 (5 of 1910). 5. The Patiala Poisons Act, 1989 BK (1 of 1989 Bk.). 6. The Rajasthan Poisons Act, 1956 (2 of 1956). . 7. The Saurashtra Poisons Act, 1952 (25 of 1952). 8. The Travancore Poisons Act, 1918(11 of 1918)