

DANGEROUS DRUGS ACT, 1930

2 of 1930

[1st March, 1930]

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DANGEROUS DRUGS ACT, 1930

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STATEMENT OF OBJECTS AND REASONS In view of the obligations undertaken by the Government of India by ratifying the Geneva Dangerous Drugs Convention, 1925, and the existing confusion of the laws governing the traffic in dangerous drugs in British India, it has become necessary to enact a Central Dangerous Drugs Act. The obligations that have been so undertaken by the Central Government are two-fold; firstly, in regard to the regulation of inter- national traffic in all the drugs covered by the Convention, and secondly, in regard to the regulation of the manufacture of, and Internal traffic in, certain specified drugs, such as cocaine and

morphine. The subject-matter of the Bill is one that under the Devolution Rules, is partly provincial, but the Local Governments have assented to the passing of Central legislation on the subject in view of the special advantages of such legislation in the circumstances. In addition to centralising and vesting in the Governor-General in Council the control of certain operations relating to dangerous drugs, the proposed Bill renders uniform, and in some cases increases, the penalties for certain offences relating to dangerous drugs." Gazette of India, 1929, Pt. V, p. 138.

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called THE DANGEROUS DRUGS ACT, 1930.

(2) It extends to the whole of India ¹[* * *].

(3) It shall come into force on such date² as the [Central Government] may, by notification in the [Official Gazette], appoint.

1. Substituted for "Governor-General in Council" by A.O., 1937.

2. Substituted for "Gazette of India", the Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1956).

2. Definitions :-

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

(a) "coca leaf" means

(i) the leaf and young twigs of any coca plant, that is, of the *Erythroxyton coca* (Lamk) and the *Erythroxyton novo-granatense* (Hiern.) and their varieties, and of any other species of this genus which the ¹[Central Government] may by notification in the ²[Official Gazette], declare to be coca plants for the purposes of this Act; and

(ii) any mixture thereof, with or without neutral materials; but does not include any preparation containing not more than 0.1 per cent. of cocaine;

(b) "coca derivative" means

(i) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;

(ii) ecgonine, that is, laevo-ecgonine having the chemical formula $C_9H_{15}NO_3$, and all the derivatives of laevo-ecgonine from which it can be recovered;

(iii) cocaine, that is methyl-benzoyl-laevo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$, and its salts;

(iv) all preparations, official and non-official, containing more than 0.1 per cent. of cocaine;

(c) "hemp" means

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.), including all forms known as bhang, siddhi, or ganja;

(ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary, for packing and transport; and

(iii) any mixture, with or without neutral materials of any of the above forms of hemp or any drink prepared therefrom:

(d) "medical hemp" means any extract or tincture of hemp;

(e) "opium" means

3[(i) the, capsules of the poppy (*Papaver somniferum* L.), whether in their original form or cut, crushed or powdered, and whether or not juice has been extracted therefrom;]

(ii) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(iii) any mixture, with or without neutral materials, of any of the above forms of opium; but does not include any preparation containing not more than 0.2 per cent. of morphine;

(f) "opium derivative" means

(i) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether in powder form or granulated or otherwise or mixed with neutral materials;

(ii) prepared opium, that is, any product 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;

(iii) morphine, that is, the principal alkaloid of opium having the chemical formula C₁₇H₁₉N₃O₃, and its salts;

(iv) diacetylmorphine, that is, the alkaloid, also known as diamorphine or heroin, having the chemical formula C₂₁H₂₃N₅O₅, and its salts; and

(v) all preparations, official and non-official, containing more than 0.2 per cent. of morphine, or containing any diacetylmorphine;

(g) "manufactured drug" includes

(i) all coca derivatives, medicinal hemp and opium derivatives; and

(ii) any other narcotic substance which the ¹[Central Government] may, by notification in the ⁵[Official Gazette] made in pursuance of a recommendation under Article 10 of the Geneva Convention ⁶[or in pursuance of any international convention supplementing the Geneva Convention], declare to be a manufactured drug; but does not include any preparation which the Central Government may, by notification in the Official Gazette ⁷made in pursuance of a finding under Article 8 of the Geneva Convention, declare not to be a manufactured drug;

(h) "dangerous drug" includes coca leaf, hemp and opium, and all manufactured drugs;

⁸[(i) "to import into ⁹[India] means to bring into ¹⁰[India] by land, sea or air across any of the customs frontiers defined by the Central Government ¹¹[, and includes the bringing into any port or place in ⁸[India] of a dangerous drug intended to be taken out of ⁸[India] without being removed from the ship or conveyance in which it is being carried];

(j) "to import inter-provincially" means to bring into a State otherwise than across any of the said customs frontiers;

(k) "to export from ¹⁴[India]" means to take out of ¹¹[India] by land, sea or air across any of the said customs frontiers;

(l) "to export inter-provincially" means to take out of a State otherwise than across any of the said customs frontiers;

16 [(11) * * * * *]

(m) "to transport" means to take from one place to another in the same **17** [State]; **18** [* * * * *]

14 [(n) * * * * *]

1. Substituted for "Governor-General in Council" by A.O., 1937.
2. Substituted for "Gazette of India", the Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1956).
3. Substituted for former sub-clause (1) by Opium Laws (Amendment) Act, 1957 (LII of 1957), S. 5 (21-12-1957).
5. Substituted for "Gazette of India" by A.O., 1937.
6. Inserted by the Dangerous Drugs (Amendment) Act, 1933 (XXVI of 1933), S. 2.
7. See the following notifications of the Government of India In the Finance Department (Central Revenues): (i) No. 2 Dangerous Drugs dated 10th January 1981, as amended by No. 4 > Dangerous Drugs, dated 27th August 1932 and No. 6 Excise and Opium, dated 25th November, 1983; (See GSR 664, Gaz. of Ind., 197S, Pt. II, Sec- tion 3 (i), p. 1586. (B) No. 3 Dangerous Drugs, dated 16th July 1932, as amended by No. 1 Dangerous Drugs, dated 2nd January 1937.
8. Clauses (i) to (1) were substituted for the original clauses (i) to (1) by A.O., 1957.
9. Substituted for the words "the States" by Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1956), S. 2 and Schedule.
10. For notification defining the customs frontier as the frontier, whether one or more than one, whether sea or land, whether exterior or interior of India, see Gazette of India, Extra, 1937, p. 433.
11. Inserted by the Dangerous Drugs (Amendment) Act, 1938 (III of 1938), Sec. 2, (26-2-1938).
14. Substituted for "the States" by Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1956), S. 2 and Schedule.
16. Cl. (11) was omitted by Jammu and Kashmir (Extension of Laws) Act, 195C (LXII of 1956), S. 2 and Sch.
17. Substituted for "Province" by A.L.O., 1950.
18. Word 'and' and cl. '(n)' were repealed by A. O. 1937.

3. Calculation of percentages in liquid preparations :-

The ¹ [Central Gov- ernment) may make rules prescribing the method by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (a), (b), (e) and (f) of Section 2 : Provided that, unless and until such rules are made, such percentages shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of

the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

1. Substituted for "Governor-General in Council", by A. O., 1937.

CHAPTER 2

PROHIBITION AND CONTROL

4. Prohibition of certain operations :-

1[(1)] No one shall

(a) cultivate any coca plant or gather any portion of a coca plant,

(b) manufacture or possess prepared opium, unless it is prepared from opium lawfully possessed for the consumption of the person so possessing it, or

(c) import into **2**[India], export from **2**[India], tranship or sell prepared opium. Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of the **4**[Government].

5[(2) The **6** [State Government] may make rules restricting and regulating the manufacture and possession of prepared opium from opium which is lawfully possessed under clause (b) of sub-section (1).]

OBJECTS AND REASONS "We have amended sub-clause (b) so as not to penalise the preparation of prepared opium by a lawful owner's relative or servant, on his behalf. In sub-clause (c) we have deleted the word 'transport', as the transport of prepared opium which is unlawfully possessed will be punishable as unlawful possession, whereas the transport of prepared opium lawfully possessed cannot, on practical ground, be made punishable. We have added a proviso which will allow Government to grow the coca plant, and to experiment in the manufacture of cocaine therefrom, as we think it desirable that India should not be debarred from having indigenous supplies of this valuable drug for proper medicinal uses....." S.C.R.

1. The original Section 4 was renumbered as sub-section (1) of that section by the Dangerous Drugs (Amendment) Act, 1933 (26 of 1933), S. 3.

2. Substituted for "the States" by Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1958), S. 2 and Sch. (1-11-1956).

4. Substituted for the "Crown" by A.L.O., 1950.

5. Sub-section (2) was inserted by Act 26 of 1933, S. 3.

6. Substituted for "Provincial Government" by A. L. O., 1950.

5. Control of Central Government over production and supply of opium :-

(1) No one shall

(a) cultivate the poppy (*Papaver somniferum* L.) or

(b) manufacture opium, save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The ¹[Central Government] may make rules permitting and regulating the cultivation of the poppy (*Papaver somniferum* L.) and the manufacture of opium, and such rules may prescribe the form and conditions of licences for such cultivation and manufacture, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the ¹[Central Government] over such cultivation and manufacture.

(3) The ³[Central Government] may also make rules^b permitting and re- gulating the sale of opium from Government factories for export or to ⁴ [State Governments] or to manufacturing chemists.

1. Substituted for "Governor-General in Council" by A. O., 1937.

3. For rules made under sub-sections (2) and (3), see the Central Opium Rules, 1934, GHZ. Ind., 1934, Pt. I, page 224.

4. Substituted for 'Provincial Government', by A.L.O., 1956.

6. Control of Central Government over manufacture of manufactured drugs :-

(1) No one shall manufacture any manufactured drug, other than prepared opium, save in accordance with rules made under sub-section (2) and with the conditions of any licence-for that purpose which he may be re- quired to obtain under those rules.

(2) The ¹[Central Government] may make rules²permitting and regulat- ing the manufacture of manufactured drugs, other than prepared opium, and such rules may prescribe the form and conditions of licences for such manu- facture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matter requisite to render effec- tive the control of the ¹ [Central Government] over such manufacture.

(3) Nothing in this section shall apply to the manufacture of medicinal opium or of preparations containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

1. Substituted for "Governor-General in Council" by A. O., 1937.

2. For Central Manufactured Drugs Rules, 1962, see G. S. R., 1259, Gazette of India, 29-9-1962, Pt. II, Sec. 3 (i) p. 1436.

7. Control of Central Government over operations at land and sea frontiers :-

(1) No one shall

(a) import into ¹[India],

(b) export from ¹[India] or

(c) tranship any dangerous drug, other than prepared opium, save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The ³[Central Government] may make rulesc permitting and regulat- ing the import into and export from ⁴ [India] and the transhipment of danger- ous drugs, other than prepared opium, and such rules may prescribe the ports or places at which any kind of dangerous drug may be imported, exported, or transhipped, the form and conditions of licences for such import, export or transhipment, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effec- tive the control of the Central Government over such import, export and transhipment.

1. Substituted for the words 'the States', by Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), S. 2 and Sch. (1-11-1956).

3. Substituted for "Governor-General in Council" by A. O., 1937.

4. For the Dangerous Drugs (Import, Export and Transhipment) Rules, 1957, see S. R. O. 3618 D/- 5-11-1957 published in Gaz. Ind., 1957, Pt. II-Sec. 3, page 2681 and for the Central Charas (Import by Land) Rules, 1935, see Gazette of India, 1935, Pt. I, page 1074.

8. Control of State Government over internal traffic in manufactured drugs and coca leaf :-

(1) No one shall

(a) import or export inter-provincially, transport, possess or sell any manu- factured drug, other than prepared opium, or coca leaf, or

(b) manufacture medicinal opium or any preparation containing morphine, diacetylmorphine or cocaine,save in accordance with rules made under sub-section (2) and with the con- ditions of any licence for that purpose which he may be required to obtain under those rules.

(2) The ¹[State Government] may ²[* * *] make rulesc permitting and regulating

(a) the inter-State import and export into and from the territories under its administration, the transport, possession and sale of manufactured drugs, other than prepared opium, and of coca leaf; and

(b) the manufacture of medicinal opium, or of any preparation containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess. Such rules may prescribe the form and conditions of licences for such import, export, transport, possession, sale and manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matters requisite to render effective the control of the ¹[State Gov- ernment] over such import, export, transport, possession, sale and manufac- ture.

(3) Save in so far as may be expressly provided in rules made under sub-section (2), nothing in this section shall apply to manufactured drugs which are the property and in the possession of Government: Provided that such drugs shall not be sold or otherwise delivered to any person who, under the rules made by the ⁴ [State Government] under this section, is not entitled to their possession.

1. Substituted for "Provincial Government", by A. L. O., 1950.

2. The words "subject to the control of the Governor-General in Council" were repealed by the A. O., 1937.

4. For Punjab Manufactured Drugs Rules, 1959, see Punj. Govt. Gaz., 11-9-1959, Pt. III, pp. 97 to 134; for M. P. Dangerous Drugs Rules, 1959, see M. P. Gaz., 9-2-1960, Pt. IV (Ga), p. 362; for Kerala Manufactured Drugs Rules, 1960, see Ker. Gaz., 4-4-1961. Pt. I, G. 1059; for Rajasthan Dangerous Drugs Rules, 1961, see Raj. Gaz., 18-5-1961, Pt. IV (Ga), p. 41: for Dangerous Drugs (Mysore) Rules, 1960, see Mys. Govt. Gaz., 5-10-1961. Pt. IV, S. I- C (ii), p. 1845; for U. P. Dangerous Drugs Rules, 1961, see U. P.

Gaz., 13-1-1962, Pt. I-A, p. 43; for Andaman and Nicobar Islands Manufactured Drugs Rules, 1966. see A. and N. Gaz., Ext., dated 26-11-1967; for Goa, Daman and Diu Manufactured Drugs Rules, 1973 See Goa Gaz., 18-10-1973, Sr. I, p. 290. For Bombay Dangerous Drugs Rules, 1935 as amended up to 1971, see Maharashtra Rules and Orders under Central Acts Vol. V, p. 2789 et seq.

9. Control of State Government over external dealings in dangerous drugs :-

No one shall engage in or control any trade whereby a dangerous drug is obtained outside ¹[India] and supplied to any person outside ²[India], save in accordance with the conditions of a licence granted by and at the discretion of the ² [State Government].

OBJECTS AND REASONS "We have inserted this clause in order that Local Governments may have some control over traffic in dangerous drugs where the persons promoting the traffic have their headquarters in India but the traffic itself lies entirely outside India. Such a case would arise where a merchant in Bombay arranges with opium suppliers in Persia for the despatch of opium to China. Clause 19 is introduced to supply the penalty for this clause inserted by us. We propose to limit the penalty to a fine of one thousand rupees without imprisonment." S. C. R.

1. Substituted for the words "the States", by Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), S. 2 and Sch. (1-11-1956).

2. Substituted for 'Provincial Government' by A. L. O., 1959.

CHAPTER 3

OFFENCES AND PENALTIES

10. Punishment for contravention of Section 4 :-

Whoever

(a) cultivates any coca plant or gathers any portion of a coca plant,

(b) manufactures or possesses prepared opium otherwise than as permitted under Section 4, or

(c) imports into ¹[India], exports from ¹[India], transships or sells prepared opium, ³ [shall be punishable with imprisonment which may extend to three years, with or without fine.] Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of the Government.

1. See foot-note [c] under Section 10 (supra).

3. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

11. Punishment for contravention of Section 5a :-

Whoever, in contravention of Section 5, or any rule¹ made under that section, or of any condition of a licence granted thereunder,

(a) cultivates the poppy, or

(b) manufactures opium, ² [shall be punishable with imprisonment which may extend to three years,

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

12. Punishment for contravention of Section 6a :-

Whoever, in contravention of Section 6, or any rule¹ made under that section, or any condition of a licence granted thereunder, manufactures any manufactured drug, ² [shall be punishable with imprisonment which may extend to three years, with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

13. Punishment for contravention of Section 7a :-

Whoever, in contravention of Section 7, or any rule made under that section, or any condition of a licence granted thereunder,

(a) imports into, ¹[India],

(b) exports from, ² [India] or

(c) transships any dangerous drug, [shall be punishable with imprisonment which may extend to three years, with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

14. Punishment for contravention of Section 8a :-

Whoever, in contravention of Section 8, or any rule¹ made under

that section, or any condition of a licence issued thereunder,

(a) imports or exports inter-provincially, transports, possesses or sells any manufactured drug or coca leaf, or

(b) manufactures medicinal opium or any preparations containing morphine diacetylmorphine or cocaine, ² [shall be punishable with imprisonment which may extend to three years, with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

15. Punishment for allowing premises to be used for the commission of an offence :-

¹[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 10, Section 12, Section 13, or Section 14, ² [shall be punishable with imprisonment which may extend to three years, with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

16. Enhanced punishment for certain offences after previous conviction :-

Whoever, having been convicted of an offence punishable under Section 10, Section 12, Section 13, or Section 14, is guilty of any offence punishable under any of those sections, shall be subject for every such subsequent offence to imprisonment which may extend ¹to four years, ² [with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

17. Enhanced punishment for offence under Sec. 15 after previous conviction :-

Whoever, having been convicted of an offence punishable under Section 15, is again guilty of an offence punishable under that section, shall be subject for every such subsequent offence to

imprisonment which may extend¹to four years, ² [with or without fine].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Janunu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

18. Security for abstaining from commission of certain offences :-

(1)Whenever any person is convicted of an offence punishable under Section 10 , Section 12 , Section 13 , or Section 14 , 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 offences punishable under those sections, 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 Schedule I, and the provisions of Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under Section 106 of that Code,

(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.

19. Penalty for contravention of Section 9a :-

Whoever engages in or controls any trade whereby a dangerous drug is obtained outside ¹[India] and supplied to any person outside ² [India], otherwise than in accordance with the conditions of a licence granted under Section 9 , shall be punished with fine which may extend to one thousand rupees. OBJECTS AND REASONS See under Section 9.

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Janunu and Kashmir (Extension of Laws) Act, 1956 (I-XII of 1956), S. 2 and Sch.

20. Attempts :-

1 [Whoever attempts to commit an offence punishable under this Chapter, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

1. Offence under this section and next, when committed in the States of A. P., Assam, Bihar, Mysore, Jharkhand, Gujarat, Maharashtra, Punjab; Orissa, U. P., West Bengal, Tamil Nadu and Nagaland, can be investigated by the Delhi Special Police Establishment See foot-note [c] under and 10 above.

21. Abetments :-

1[(1) Whoever abets an offence punishable under this Chapter 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, 1860 , be punished with the punishment provided for the offence.

(2) A person abets an offence within the meaning of this section who, in **2**[India] abets the commission of any act in a place without and beyond **2**[India] which

(a) would constitute an offence if committed within **2**[India]; or

(b) under the laws of such place, is an offence relating to dangerous drugs having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within **2** [India].

1. See foot-note [c] under Section 10 (supra).

2. Substituted for the words "the States", by the Jammu and Kashmir (Extension of Laws) Act, 1956 (LXII of 1956), S.2 and Sch.

CHAPTER 4 **PROCEDURE**

22. Power to issue warrants :-

(1) The Collector, or other officer authorized by the **1** [State Government] in this behalf, or a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the [State Government] in this behalf, may issue a warrant for the arrest of any person whom he has reason to

believe to have committed an offence punishable under Chapter III, or for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed.

(2) The officer to whom a search warrant under sub-section (1) is addressed shall have all the powers of an officer acting under S. 23.

1. Substituted for the words "any officer of the Department of Excise, Police, Customs, Salt, Opium or Revenue. Superior in rank to a peon or constable, authorized in this behalf by the State Government,, ' by the Opium Laws (Amendment) Act, 1957 (LII of 1957), S. 8 (21-12-1957).

23. Power of entry, search, seizure and arrest without warrant :-

(1)¹ [Any officer of the department of Central Excise, Narcotics, Drugs Control, Customs, Revenue, Police or Excise, superior in rank to a peon or constable, authorized in this behalf by the Central Government or the State Government,] who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

(a) enter into any such building, vessel or place;-

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

(c) seize such drug and all materials used in the manufacture thereof and any other article which he has reason to believe to be liable to confiscation under Section 33 and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug;; and

(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 Chapter III relating to such drug: Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evi-

dence or facility for the escape of an offender, he may enter and search such building, vessel or enclosed 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.

OBJECTS AND REASONS "As the Bill is aimed at traffic in dangerous drugs, it is desirable that officers carrying out the search of a house containing dangerous drugs should be able to seize documents or other articles which may furnish valuable evidence that the drugs seized have been the subject-matter of an offence. We have amended sub-clause (c) accordingly. We have added a proviso which will empower police and other officers to make searches by night, under circumstances where there is reason to believe that delay will result in the escape of the offenders or the removal of illicit drugs. We have added a new sub-clause to ensure that these powers shall be properly exercised." S.C.R.

1. Substituted for the words "any officer of the Department of Excise, Police, Customs, Salt, Opium or Revenue. Superior in rank to a peon or constable, authorized in this behalf by the State Government,," by the Opium Laws (Amendment) Act, 1957 (LII of 1957), S. 8 (21-12-1957).

24. Power of seizure and arrest in public places :-

Any Officer of any of the departments mentioned in Section 23 may

(a) seize, in any public place or in transit, any dangerous drug in respect of which he has reason to believe an offence punishable under Chapter III has been committed, and, along with such drug, any other article liable to confiscation under Section 33 , and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under Chapter III, and, if such person has any dangerous drug in his possession and such possession appears to him to be unlawful, arrest him and any other persons in his company.

25. Mode of making searches and arrests :-

The provisions of Code of Criminal Procedure, 1898, shall apply, in so far as they are not inconsistent with the provisions of section 22 , section 23 and section 24 , to all warrants issued and arrests

and searches made under those sections.]

26. Obligations on officers to assist each other :-

All officers of the several departments mentioned in Section 23 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

27. Reporta of arrests and seizures :-

Whenever any person 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 the particulars¹ of such arrest or seizure to his immediate official superior.

1. Constitution of India, Art. 22 (2); Criminal Procedure Code, 1973, S. 58.]

28. Punishment for vexatious entry, search, seizure or arrest :-

Any person empowered under Section 23 or Section 24 who

(a) without reasonable grounds of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place;

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any dangerous drug or other article liable to be confiscated under Section 33, or of seizing any document or other article liable to seizure under Section 23 or Section 24 ;

(c) vexatiously and unnecessarily detains, searches or arrests any person, shall be punished with fine which may extend to five hundred rupees.

29. Disposal of persons arrested and of articles seized :-

(1) Every person arrested and articles seized under a warrant issued under S. 22 shall be forwarded without delay to the authority by whom the warrant was issued; and every person arrested and article seized under Section 23 or Section 24 shall be forwarded without delay to the officer in charge of the nearest police station or to the nearest officer of the Excise Department empowered under Section 30 .

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

22(2).]

OBJECTS AND REASONS See under Section 30.

30. Power to invest Excise officers with powers of an officer in charge of a police station :-

The ¹ [State Government] may invest any officer of the Excise Department or 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

OBJECTS AND REASONS "We have introduced a new clause 30 giving Government power to invest Excise Officer with the powers of an officer in charge of a police station for the investigation of offences under this Act; and we have amended (Section 29) so that offenders arrested and articles seized may be forwarded to such officers. These amendments should facilitate the prosecution of offences and will tend to shorten the period during which persons are in custody pending their production before the Court." S. C. R.

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

31. Jurisdiction to try offences :-

Repealed by the Opium Laws (Amendment) Act, 1957 (LII of 1957), S. 9 (21-12-1957).]

32. Presumptiona from possession of illicit articles :-

In trials under this Act it may be presumed, unless and until the contrary is proved, that the accused has committed¹ an offence under Chapter III in respect of

(a) any dangerous drug;

(b) any poppy or coca plant growing on any land which he has cultivated;

(c) any apparatus specially designed or any group of utensils specially adapted for the manufacture of any dangerous drug; or

(d) any materials which have undergone any process towards the manufacture of a dangerous drug, or any residue left of the materials from which a dangerous drug has been manufactured, or the possession of which he fails to account satisfactorily.

1. Cf. Evidence Act (1872), S. 114.

33. Liability of illicit articles to confiscationa :-

(1) Whenever any offence has been committed which is punishable

under Chapter III, the dangerous drug, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(2) Any dangerous drug lawfully imported, transported, manufactured, possessed, or sold along with, or in addition to, any dangerous drug¹ which is liable to confiscation under sub-section (1), and the receptacles, packages and coverings in which any dangerous drug, materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages, and the animals, vehicles, vessels and other conveyances used in carrying the same, shall likewise be liable to confiscation : Provided that no animal, vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that the owner thereof knew that the offence was being, or was to be or was likely to be, committed.

1. Cf. Customs Act, 1962 (52 of 1962), Ss. 111, 113 and 115.

34. Procedure in making confiscations :-

(1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the Court shall decide whether any article seized under this Chapter is liable to confiscation under Section 33 ; and, if it decides that the article is so liable, it may order confiscation accordingly.

(2) Where any article seized under this Chapter appears to be liable to confiscation under Section 33 , but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer authorized by the ¹ [State Government] in this behalf, may inquire into and decide such liability, and may order confiscation accordingly: Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim: Provided, further, that, if any such article, other than a dangerous drug, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(3) Any person not convicted who claims any right to property

which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

1. Substituted by A.L. O., 1950, for "Provincial Government".

35. Power to make rules regulating disposal of confiscated articles and rewards :-

¹[In connection with offences against rules which under this Act fall to be made by the ²[State Government], the ³ [State Government], and in connection with other offences the Central Government,] may make rules to regulate

(a) the disposal of all articles confiscated under this Act; and

(b) the rewards to be paid to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

OBJECTS AND REASONS "In sub-clause (b) we have made a small amendment in order to secure that Government may give rewards out of fines and confiscations to persons who are neither officers nor informers such as private persons who take an active part in an important capture." S. C. R.

1. Substituted for the words "the Governor-General in Council" by A. L. O., 1937.

2. Substituted by A.L.O., 1950, for "Provincial Government".

3. For Orissa Dangerous Drugs (Disposal of Confiscated Opium) Rules, 1960, see Orissa Gazette. 15-7-1960, Pt. III, p. 467; for Mysore Dangerous Drugs Reward Rules, 1960, see Mysore Government Gazette, 1-12-1960, Pt. IV, S. 1-C, p. 3156.

CHAPTER 5

MISCELLANEOUS

36. Provisions regarding rules :-

(1) All rules made under this Act shall be subject to the condition of previous publication.

¹ [(2) Rules made under this Act shall be published in the Official Gazette.]

(3) 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.

(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.

1. Section 74 of the Contract Act deals with compensation for breach of contract where penalty is stipulated; an exception to this section is as follows.

37. Recovery of sums due to Government :-

(1) Any arrear of any licence fee chargeable by any rule made under this Act may be recovered from the person primarily liable to pay the same or from his surety (if any) as if it were an arrear of land revenue.

(2) When any person in compliance with any rule¹ made under this Act, gives a bond (other than a bond under Section 18) for the performance of any act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty, a within the meaning of S.74 of the Indian Contract Act, 1872; and, upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (If any) as if it were an arrear of land revenue.

"Exception. When any person enters into any bail-bond, recognizance or other instrument of the same nature, or under the provisions of any law, or under the orders of the Central Government, or any State Government, gives any bond for the performance of any public duty or act in which the public are interested, he shall be liable, upon breach of the condition of any such Instrument, to pay the whole sum mentioned therein.

Explanation. A person who enters into a contract with Government does not necessarily thereby undertake any public duty, or promise to do an act in which the public are Interested."

1. Section 74 of the Contract Act deals with compensation for breach of contract where penalty is stipulated; an exception to this section is as follows.

38. Application of the Sea Customs Act, 1878 :-

All prohibitions and re- strictions unposed by or under this Act on the import into ¹[India], the ex- port from ² [India], and the transshipment of dangerous drugs, shall be deemed to be prohibitions and restrictions imposed under Section 19 or S.134 of the Sea Customs Act, 1878 and the provisions of that Act shall apply ac- cordingly : Provided that, where the doing of anything is an offence punishable under that Act and under this Act, nothing in that Act or in this section shall pre- vent the offender from being punished under this Act.

1. Now see the Customs Act, 1962 (52 of 1962), Sections 11 and 54.

2. Substituted for "the States" by the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956). Section 2 and Schedule.

39. Saving of local and special laws :-

(1) Nothing in this Act or in the rules made thereunder shall affect the validity of any ¹[Provincial Act ²[or an Act of any State Legislature]] for the time being in force, or of any rule made thereunder, which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a correspond- ing restriction imposed by or under this Act, on the consumption of or traffic in any dangerous drug within ³ [India].

(2) Nothing in this Act or in the rules made thereunder shall affect the validity of Opium Act, 1857 : Provided that, where the doing of anything is an offence punishable under that Act and under this Act, nothing in that Act or in this sub-section shall prevent the offender from being punished under this Act.

1. Substituted for the words "enactment of a local or provincial Legislature" Toy A.L.O., 1950.

2. Substituted for the words "or an Act of the Legislature of a Part A State or Part C State" by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950), Section 2 (2) and Schedule (18-4-1950).

3. Substituted for the words "the States" by the Jammu and Kashmir (Exten- sion of Laws) Act, 1956 (62 of 1956), Section 2 and Schedule.

40. Amendment of certain enactments :-

Repealed by the Repealing Act, 1938 (1 of 1938), S. 2 and Sch.]

41. Saving of things already done :-

When anything done under any enactment specified in the first three columns of Schedule II is in force immediately prior to the commencement of this Act, it shall be deemed as from the commencement of this Act, to have been done under this Act or under that enactment as hereby amended, as the case may require.

SCHEDULE 1

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE DANGEROUS DRUGS ACT, 1930

(See Section 18 .) Whereas I (name), inhabitant of (place), have been called upon to enter into a bond to abstain from the commission of offences under Section 10 , Section 12 , Section 13 and Section 14 of the Dangerous Drugs Act, 1930, 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 [the Govern- ment], [* * *] the sum of rupees..... Dated this.....day of.....19 . (Signature.) (Where a bond with sureties is to be executed, add) We do hereby declare ourselves sureties for the abovenamed.....that he will abstain from the commission of offences under Section 10 , Section 12 , Section 13 and Section 14 of the Dangerous Drugs Act, 1930, during the said term; and, in case of his making default therein, we bind ourselves, jointly and several- ly, to forfeit to [the Government], [***] the sum of rupees..... Dated this.....day of.....19 . (Signature.)

SCHEDULE 2

2

Amendments of local Acts. [Repealed by the Repealing Act, 1938 (I at 1938), Section 2 and Schedule.]