

SCHEDULE I.

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

(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, section 14 and section 14A of the Dangerous Drugs Act 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 State 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, section 14 and section 14A of the Dangerous Drugs Act during the said term ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the State the sum of rupees .

Dated this day of 19 .

(Signatures.)

THE OPIUM ACT.

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THE OPIUM ACT.

[INDIA ACT I, 1878 ; BURMA ACT VII, 1909.]

PART I. (29th March, 1879.)

- 1-2. * * * *

3. In this Part, unless there be something repugnant in the subject or

Interpreta-
tion clause.

Context.—

“opium” means—

- (i) the capsules of the poppy (*Papaver somniferum* L.) ;
- (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 0·2 than per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act ;

“ Magistrate ” means a Magistrate of the first class or (when specially empowered by the President of the Union to try cases under this Act) a Magistrate of the second class ;

“ transport ” means to remove from one place to another within the Union of Burma.

4. Except as permitted by this Part, or by any other enactment relating to opium for the time being in force, or by rules framed under this Part or under any such enactment, no one shall—

Prohibition of possession, etc., of opium.

(a) possess opium ;

(b) transport opium ;

(c) * * * * *

(d) sell opium.

5. The President of the Union may, from time to time, by notification in the Gazette, make rules consistent with this Part to permit, absolutely or subject to the payment of duty or to any other conditions, and to regulate, within the whole or any specified part of the Union of Burma, all or any of the following matters :—

Power to make rules to permit such matters.

(a) the possession of opium ;

(b) the transport of opium ;

(c) * * * * *

(d) the sale of opium and the form of duties leviable on the sale of opium by retail :

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea customs for the time being in force or under the Dangerous Drugs Act.

6—8. * * * * *

9. (1) Any person who, in contravention of this Part, or of rules made and notified under section 5,—

Penalty for possession, etc., of opium.

(a) possesses opium, or

(b) transports opium, or

(c) * * * * *

(d) sells opium, or

(e) omits to warehouse opium, or removes or does any act in respect of warehoused opium,

and any person who otherwise contravenes any such rule,

shall, on conviction before a Magistrate, be punished for each such offence

with [rigorous imprisonment]¹ for a term which may extend to [five years and shall also be liable to fine :

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred kyats.²

³(2) Any person who abets an offence punishable under sub-section (1) shall, notwithstanding anything contained in section 116 of the Penal Code, be punishable, whether such offence be committed or not in consequence of the abetment, with the same punishment as is provided for such offence :

Provided that if a person convicted under this section is, in the opinion of the convicting Magistrate, the true owner of the opium in respect of which he is convicted, rigorous imprisonment for a term which shall not be less than [one year]² shall be inflicted upon him as part of the punishment.

Attempt.

4 9A. Whoever attempts to commit an offence punishable under this Act or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punished with the punishment provided for the offence.

Punishment for allowing premises, etc., to be used for commission of offences.

4 9B. 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 (1), 9 (2) or 9A shall on conviction be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

Security for abstaining from commission of certain offences.

4 9C. (1) Whenever any person is convicted of any offence punishable under section 9 (1), 9 (2), 9A or 9B and the Magistrate 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 Magistrate 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 the Magistrate thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule and the provision of the Code of Criminal Procedure shall, in so far as may be, 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 the said Code.

(3) If the conviction is set aside on appeal or in revision, 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.

¹ Substituted by Act XIII, 1949.

² Substituted by Act XXXVIII, 1953.

³ Inserted by Act XIII, 1949.

⁴ Inserted by Act XXXVIII, 1953.

¹ **9D.** Whoever, having been convicted of an offence punishable under section 9 (1), 9 (2), 9A or 9B is guilty of any offence punishable under any of those sections, shall be subject for every such subsequent offence to twice the punishment which might be imposed on a first conviction under this Act. Enhanced punishment after previous conviction.

¹ **9E.** Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, it shall be lawful for a Magistrate of the first class to pass a sentence of fine exceeding one thousand kyats on any person convicted of contravening the provisions of section 9 (1), 9 (2), 9A or 9B. Special provisions regarding fine.

10. In prosecutions under section 9, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Part. Presumption in prosecutions under section 9.

11. In any case in which an offence under section 9 has been committed,— Confiscation of opium.

(a) the opium in respect of which any offence under the same section has been committed,

(b) where, in the case of an offence under clause (b) of the same section, the offender is transporting any opium exceeding the quantity (if any) which he is permitted to transport, the whole of the opium which he is transporting, importing, or exporting,

(c) where, in the case of an offence under clause (d) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium,

shall be liable to confiscation.

The vessels, packages and coverings in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall likewise be liable to confiscation.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate. Order of confiscation by whom to be made.

Whenever confiscation is authorized by this Part, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Part has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector of the district or Deputy Commissioner, or by any other officer authorized by the President of the Union in this behalf, either personally or in right of his office, who may order such confiscation : Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without

¹ Inserted by Act XXXVIII, 1953.

hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

Power to make rules regarding disposal of things confiscated, and rewards.

13. The President of the Union may from time to time, by notification in the Gazette, make rules consistent with this Part to regulate—

- (a) the disposal of all things confiscated under this Part; and
- (b) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Part.

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue superior in rank to a peon or constable, who may in right of his office be authorized by the President of the Union in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Part 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 opium and any other thing which he has reason to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium ; and
- (d) detain and search, and, if he think proper, arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to seize opium in open places.

15. Any officer of any of the said departments may—

- (a) seize, in any open place or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under section 11 or any other law for the time being in force relating to opium ;
- (b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search and arrest.

Searches how made.

16. All searches under section 14 or section 15 shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers to assist each other.

17. The officers of the several departments mentioned in section 14 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Part.

Vexatious entries, searches, seizures and arrests.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Part.

or vexatiously and unnecessarily detains, searches or arrests any person, shall, for every such offence, be punished with fine not exceeding five hundred rupees.

19. The Collector of the district, Deputy Commissioner, or other officer authorized by the President of the Union in this behalf, either personally or in right of his office, or a Magistrate may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

Issue of warrants.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section 14 or section 15, shall be forwarded without delay to the nearest officer in charge of a police-station or to the nearest officer of the Excise Department duly empowered under section 20A, whoever is nearer; and every person arrested and thing seized under section 19 shall be forwarded without delay to the officer by whom the warrant was issued.

Disposal of person arrested or thing seized.

Every officer to whom any person or thing 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 thing.

20A. The President of the Union may invest any officer of the Excise Department not inferior in rank to a sub-inspector with the powers of an officer in charge of a police-station for the investigation of offences under this Part.

Investigation of offences by Excise Officers.

No confession made to an Excise Officer so empowered shall be proved as against a person accused of any offence.

21. Whenever any officer makes any arrest, seizure or search under this Part, he shall, within forty-eight hours next after such arrest, seizure or search make a full report of all the particulars of such arrest, seizure or search to his immediate official superior.

Report of arrests and seizures.

22. * * * *

23. Any arrear of any fee or duty imposed under this Part or any rule made hereunder,

Recovery of arrears of fees, duties, etc.

and any arrear due from any farmer of opium-revenue,

may be recovered from the person primarily liable to pay the same to the Government or from his surety (if any) as if it were an arrear of land-revenue.¹

24. When any amount is due to a farmer of opium-revenue from his licensee, in respect of a licence, such farmer may make an application to the Collector of the district, Deputy Commissioner or other officer authorized by the President of the Union in this behalf, praying such officer to recover such

Farmer may apply to Collector or other officer to recover amount due

¹ See the Revenue Recovery Act.

3. Whenever a District Magistrate, a Subdivisional Magistrate, or, when he is specially empowered in this behalf by the President of the Union, a Magistrate of the first class, receives information that any person within the local limits of his jurisdiction earns a livelihood wholly or in part—

- (a) by the unlawful manufacture, transport, importation, exportation, sale, or purchase of opium in contravention of Part I of this Act or the Dangerous Drugs Act, or of rules made thereunder ; or
- (b) by abetting such unlawful manufacture, transport, importation, exportation, sale or purchase of opium ;

Powers of a District Magistrate, Subdivisional Magistrate, or Magistrate specially empowered by the President.

he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure ; and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

4. (1) Whenever an officer of one of the departments of Excise, Police, Customs, Salt, Opium or Revenue, not inferior in rank to a sub-inspector of police, or holding such analogous appointment in respect of the other departments mentioned as may be notified by the President of the Union in this behalf, has reason to believe that opium liable to confiscation under any law for the time being in force relating to opium is being kept, concealed or transported on any vessel or conveyance, and that a warrant cannot be obtained under section 19 of Part I of this Act or section 22 of the Dangerous Drugs Act, without affording the offender an opportunity of escape, or of concealing or destroying evidence of the existence of the opium, he may at any time by day or night—

Power to enter and search vessels or conveyances, to arrest persons and to seize opium.

- (a) enter upon or in case of resistance break open and search any such vessel or conveyance ;
- (b) seize any such opium and any other thing which he has reason to believe to be liable to confiscation under any law for the time being in force relating to opium ; and
- (c) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under any law for the time being in force relating to opium.

(2) Searches of vessels made under this section shall be specially exempted from the provisions of section 103 of the Code of Criminal Procedure, the provisions whereof regarding searches shall otherwise apply thereto.

Searches of vessels exempted from section 103 of the Code of Criminal Procedure.

(3) Every person arrested and thing seized under this section shall be forwarded without delay to the nearest officer in charge of a police-station or to the nearest officer of the Excise Department duly empowered under section 5, whoever is nearer, who shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Disposal of person arrested or things seized.

Report of
arrests and
seizures.

(4) Whenever any officer makes any arrest, seizure or search under this Part, he shall, within forty-eight hours next after such arrest, seizure or search, make a full report of all the particulars of such arrest, seizure or search to his immediate official superior.

Investiga-
tion of
offences by
Excise
Officers.

5. The President of the Union may invest any officer of the Excise Department not inferior in rank to a sub-inspector with the powers of an officer in charge of a police-station for the investigation of offences under this Part.

No confession made to an Excise Officer so empowered shall be proved as against a person accused of any offence.

THE POISONS ACT.

[INDIA ACT XII, 1919.] (3rd September, 1919.)

1. * * * *

Power of
President to
regulate
possession
for sale and
sale of any
poison.

2. (1) The President of the Union may by rule regulate, within the whole or any part of the Union of Burma, 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 the 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.

Power to
prohibit im-
portation
into the
Union of
Burma of
any poison
except under
licence.

3. The President of the Union may, by notification in the Gazette, prohibit, except under and in accordance with the conditions of a licence, the importation into the Union of Burma of any specified poison, and may by rule regulate the grant of licences.