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Handwritten signature and initials, possibly "P. W.", over a faint stamp.

## LAWS AND REGULATIONS

COMMUNICATED IN COMPLIANCE WITH THE TERMS OF THE

CONVENTION FOR LIMITING THE MANUFACTURE  
AND REGULATING THE DISTRIBUTION  
OF NARCOTIC DRUGS OF 13 JULY 1931

AS AMENDED BY THE PROTOCOL OF 11 DECEMBER 1946



## FEDERATION OF MALAYA

1949

E/NL. 1949/73  
30 December 1949

Note by the Secretary-General

In accordance with Article 21 of the Convention of 1931 for limiting the Manufacture and regulating the Distribution of Narcotic Drugs, as amended by the Protocol of 11 December 1946, the Secretary-General has the honour to forward to the Members of the United Nations and to the other parties to the Convention the following text communicated by the Government of the United Kingdom.

FOURTH SUPPLEMENT TO THE  
BRITISH MILITARY ADMINISTRATION, MALAYA, GAZETTE  
OF THE  
MALAY PENINSULA  
OF THURSDAY, THE 24TH JANUARY, 1946  
PUBLISHED BY AUTHORITY

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KUALA LUMPUR, FRIDAY, 1st FEBRUARY, 1946

[Vol. 1

Part I. - PROCLAMATIONS AND NOTICES UNDER PROCLAMATIONS

No. 215.-

Proclamation No. 49

A PROCLAMATION TO PROVIDE FOR THE SUPPRESSION  
OF OPIUM SMOKING

I, Deputy Chief Civil Affairs Officer, Malay Peninsula, in exercise of the powers conferred upon me by Warrant under the Military Administration (Delegation of Powers) Proclamation, DO HEREBY PROCLAIM AND ORDER:

Short title.

1. This Proclamation may be cited as the Opium and Chandu Proclamation.

Chief Chandu Officer and Comptroller. Appointments and powers.

2. (1) The Comptroller shall be the Chief Chandu Officer under this Proclamation and shall have the superintendence of all matters relating to opium and chandu.

(2) The Comptroller may delegate to any officer of the Civil Affairs Service such of his powers as he thinks fit.

Surrender of opium, etc., by persons in possession.

3. (1) Every person who has in his possession or under his control any opium or chandu or any opium pipe, lamp or opium cooking utensil shall within fourteen days from the commencement of this Proclamation surrender the same to a Chandu Officer at any Customs Office or at any police station of the Civil Affairs Police.

Compensation

(2) Compensation at such rates as may be fixed by the Comptroller will be paid in respect of any opium, chandu or opium pipe surrendered in accordance with the provisions of sub-section (1) of this section.

Penalty

(3) Subject to the provisions of section 20 of this Proclamation any person who after the expiration of fourteen days from the commencement of this Proclamation has in his possession any opium or chandu shall be liable to imprisonment for a term not exceeding five years.

Smoking, etc., of chandu prohibited.

4. (1) No person shall consume chandu.  
(2) No person shall induce another to consume chandu.  
(3) No person having the control or management of any land or building shall permit the consumption of chandu on such land or in such building.

(4) If any person shall consume chandu in any place in contravention of this section, the person having the control or management of such place shall, in the absence of proof to the contrary, be deemed to have permitted the consumption of chandu therein.

Penalties.

(5) Any person contravening the provisions of sub-section (1) of this section shall be liable to imprisonment for such term, in any case where the Court is of opinion that the accused is an opium addict, as in the opinion of the Court will be of sufficient duration to enable the accused to overcome such addiction, and in any event not exceeding one year and any person contravening the provisions of sub-sections (2) or (3) shall be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(6) In this section and in section 5 "consume" means eat, chew, smoke, swallow or drink.

Keeping premises for consumption of chandu for

5. (1) Any person who -  
(a) keeps or manages or acts or assists in the management of any premises wherein facilities are provided for

reward an  
offence.

- the consumption of chandu in return for any remuneration, whether in money or otherwise; or
- (b) being a tenant, lessee, occupier or the person in charge of any premises, knowingly permits such premises or any part thereof to be used as a place wherein facilities are provided for the consumption of chandu in return for any remuneration whether in money or otherwise; or
  - (c) being the owner of any premises, or the agent of such owner, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a place wherein facilities are provided for the consumption of any chandu in return for any remuneration, whether in money or otherwise, or is wilfully a party to the continued use of such premises or any part thereof as a place where facilities as aforesaid are provided:

shall be liable, for a first offence, to a fine not exceeding two thousand dollars, and for a second and subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment of either description for a term not exceeding 12 months or to both such fine and imprisonment.

(2) For the purposes of this section "premises" include any house, shop, room, shed, vessel, vehicle or place.

(3) Notwithstanding anything contained in any contract or lease it shall be lawful for the owner of any premises or the agent of such owner to terminate forthwith the tenancy of any tenant, lessee or occupier of such premises who commits an offence against this section.

Prohibition  
of sale or  
purchase of  
opium and  
chandu.

6. (1) Subject to the exception specified in section 20 of this Proclamation no person shall -

- (a) sell or offer for sale any opium or chandu; or
- (b) purchase or agree to purchase any opium or chandu; or
- (c) barter or exchange or agree or offer to barter or exchange any opium or chandu for any other goods.

Penalty.

(2) Any person offending against the provisions of this section shall be liable to imprisonment for a term not exceeding three years.

Prohibition  
of importation,  
exportation or  
possession of  
opium or  
chandu.

7. (1) Subject to the exceptions specified in sections 10 and 20, no person shall import into or export from the Malay Peninsula, or have in his possession for any purpose relating to any such importation, or exportation, any opium or chandu.

(2) Any person who -

- (a) imports, exports or has in his possession for any purpose relating to its importation or exportation, opium or chandu; or
- (b) aids, abets, procures or is interested or concerned in, or knowingly derives any profit from the importation or exportation of any opium or chandu;

shall be liable, for a first offence, to imprisonment of either description for a term not exceeding three years and may also in addition to such imprisonment be punished with a fine not exceeding ten thousand dollars or not exceeding ten times the value of the opium or chandu, if any, in respect of which the offence was committed, whichever is the greater, and for a second or subsequent offence, shall be liable to imprisonment for a term not exceeding five years and may also in addition to such imprisonment be punished with a fine not exceeding ten thousand dollars or twenty times the value of the opium or chandu, if any, in respect of which the offence was committed, whichever is the greater.

Penalty for  
concealing or  
being cognizant  
of concealing  
opium or chandu.

8. Any person who conceals any opium or chandu in any part of any vessel, or who, being cognizant of opium or chandu being concealed in any vessel, does not take the earliest opportunity of reporting the same to the master of such vessel, shall be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not

Penalty if  
ship used for  
unlawful importa-  
tion or expor-  
tation.

exceeding one year, or to both such fine and imprisonment.

9. (1) If any ship is used for the importation or exportation of any opium or chandu contrary to this Proclamation or for the receipt or storage of any opium or chandu imported contrary thereto the owner and master thereof shall each be liable to a fine not exceeding ten thousand dollars or six times the value of the opium or chandu whichever is the greater, unless it is proved to the satisfaction of the Court that the owner or master was not implicated in the placing or keeping of such opium or chandu on board the ship and that the offence in question was committed without his knowledge, consent or connivance, and the ship may be detained by order of the Court until security has been given for such sum as the Court orders, not exceeding ten thousand dollars.

(2) Except as provided by section 11 the finding of any opium or chandu on board any ship shall be *prima facie* evidence that the ship has been used for the importation or exportation of opium and chandu contrary to this Proclamation or for the receipt or storage of such opium or chandu imported contrary thereto.

(3) For the purposes of this section the expression "master" shall include every person, except a pilot, having command or charge of the ship.

Presumption  
as to im-  
portation.

10. (1) Opium and chandu found on board any vessel within the waters of the Malay Peninsula shall be deemed to have been imported: Provided that -

(a) opium in original unbroken chests brought to a port in a steam vessel of more than one hundred tons burden shall not be deemed to have been imported if the master of such vessel has immediately upon the arrival of such vessel produced to the proper Chandu Officer the import certificate together with a duly authenticated copy of the export authorisation or of the diversion certificate, if any, issued in respect of such opium, and if such opium is not removed from such vessel;

(b) opium or chandu brought to a port in a steam vessel of more than one hundred tons burden and claimed by the master of such vessel as part of the sea stores of such vessel shall not be deemed to have been imported if the following conditions have been complied with -

- i. the amount of such opium or chandu shall not be more than is reasonably required for use as sea stores of the vessel to the next port of call outside the Malay Peninsula;
- ii. such opium or chandu shall during the whole period of the vessel's presence in port be kept in a place of safety under the sole custody and control of the master;
- iii. immediately upon the arrival of the vessel in port correct particulars of such opium or chandu shall be given by the master to the proper Chandu Officer;
- iv. the Comptroller, the Officer Commanding the Civil Affairs Police or any person authorised in writing either generally or in any particular instance by them or any of them shall be permitted to inspect such opium or chandu at any time and to place seals thereon;
- v. no portion of such opium or chandu shall be made use of within the waters of the Malay Peninsula.

(2) Opium or chandu shall not be deemed to be or to have been exported -

Presumption  
as to ex-  
portation.

- (a) when such opium having been brought to a port in a steam vessel of more than one hundred tons burden and being accompanied by the import certificate together

with a duly authenticated copy of the export authorisation or of the diversion certificate, if any, issued in respect thereof is not landed or transhipped and is taken from such port under the said documents in the same vessel in which it was brought;

(b) when such opium or chandu has been lawfully brought in as sea stores as provided in sub-section (1).

Powers of arrest.

11. (1) Any Chandu Officer may arrest without warrant -

(a) any person found committing or attempting to commit or employing or aiding any person to commit an offence against this Proclamation;

(b) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Proclamation;

(c) any person who obstructs a Chandu Officer while in the execution of his duty; and may search any person so arrested, provided that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(3) If any person liable to arrest under this Proclamation is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and be dealt with as if he had been arrested at the time of committing such offence.

Obstruction, refusal to give information, and giving of false information.

12. (1) Any person who -

(a) refuses any Chandu Officer access to any place or vessel;

(b) otherwise obstructs or hinders any officer in effecting any entrance which he is entitled to effect under this Proclamation or any rule made thereunder, or in making any inspection or search authorised by this Proclamation or by any such rule, or in the execution of any duty imposed or power conferred by this Proclamation or by any such rule; or

(c) refuses or neglects to give information which is reasonably required of him and which he has it in his power to give;

shall be liable to a fine not exceeding two thousand dollars.

(2) Any person who furnishes to a Chandu Officer as true information which he knows or has reason to believe to be false shall be guilty of an offence against this Proclamation.

Penalty for offering or receiving bribes, etc.

13. If any Chandu Officer shall make any collusive seizure or deliver up or make any agreement to deliver up and not to seize any vessel or conveyance or any opium or chandu liable to seizure, or shall accept, agree to accept or attempt to obtain any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, every such officer shall be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment, and every person who shall give or offer or promise to give or procure to be given any bribe, gratuity, recompense or reward to, or shall make any collusive agreement with any such officer to induce him in any way to neglect his duty or to do or conceal or connive at any act whereby any of the provisions of this Proclamation may be evaded shall be guilty as an abettor and punishable as hereinafter provided.

General penalty

14. Every omission or neglect to comply with, and every act done or attempted to be done contrary to the provisions of this Proclamation or of any rule made thereunder, and every act done in the Malay Peninsula to aid, abet, counsel or procure the commission in any place outside the Malay Peninsula of any offence punishable under the provisions of any corresponding law in force in that place, and every act preparatory to, or in furtherance of, any act (wherever to be

committed) which if committed in the Malay Peninsula would constitute an offence against this Proclamation and every abetment of any such omission, neglect, act or attempt shall be deemed to be an offence against this Proclamation, and for every such offence not otherwise specially provided for the offender shall, in addition to any forfeiture of the articles seized as hereinafter provided, be liable, for a first offence, to a fine not exceeding two thousand dollars, and for a second or subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for twelve months, or to both such fine and imprisonment.

Attempts  
and abetment.

15. Whoever attempts to commit any offence punishable under this Proclamation or abets the commission of such offence shall be liable to the punishment provided for such offence.

Powers of  
District Court.

16. A District Court shall notwithstanding anything in the Military Courts Proclamation contained have power to try any offence against this Proclamation or any rule made thereunder committed within the district in which such District Court has jurisdiction and shall have power to impose any penalty provided by this Proclamation or by such rule.

Forfeitures.

17. (1) All opium and chandu in respect of which any offence under this Proclamation or any breach of any rule made thereunder has been or is being committed, together with the utensils, vessels, packages, vehicles and conveyances in which the same may be found or which may have been used in connection with such offence or breach, may be seized by any Chandu Officer and, if seized, may be forfeited by order of the District Court having jurisdiction in the district in which the same was seized, provided that no order of forfeiture of any vessel shall be made if such vessel exceeds one hundred tons burden.

(2) All opium and chandu, together with the utensils, vessels, packages, vehicles and conveyances containing the same, which may be found without an apparent owner and for which no owner may appear after such notice given as may seem fit to the District Court having jurisdiction in the district in which the same was found shall be forfeited.

(3) The forfeiture of any vessel under this Proclamation includes the forfeiture of her tackle, apparel and furniture, and the forfeiture of any conveyance includes the forfeiture of any animals by which the same may be drawn.

Possession.

18. When in this Proclamation possession of anything constitutes an offence such possession shall include any custody or control of such thing and it shall not be necessary to prove that the person in possession of such thing was the owner of such thing or was aware of the nature quality or contents of such thing:

Provided that:

- i. no person shall be convicted of an offence under this Proclamation solely because he was in possession of anything if that person proves to the satisfaction of the Court that he was not aware of the nature quality or contents of such thing and that he came into possession and continued in possession of such thing in such circumstances as to have no reasonable cause to know or to suspect the nature quality or contents of such thing;
- ii. if the possession alleged against the person charged is possession by a servant or agent of the person charged particulars of such possession must be included in the charge;
- iii. no person in possession of anything as the result of exercising any powers conferred or executing any duty imposed upon him by this Proclamation shall be guilty of any offence by reason only of such possession.

Power to  
Senior Civil

19. The Senior Civil Affairs Officer (Medical) or any Medical Officer of the Civil Affairs Service appointed by him for the purpose,



Affairs Officer (Medical) to authorise possession of opium or chandu in certain cases.

Importation, exportation and possession of opium or chandu not an offence in certain cases.

Actions of officer no offence. Rules.

if, he considers that it is necessary on medical grounds for any person to possess and use opium or chandu, may authorise in writing, subject to such conditions as he may see fit to impose, the possession of opium or chandu to a specified amount by such person.

20. Nothing in this Proclamation shall be deemed to prevent -

- (a) any medical officer of His Majesty's Forces who is on duty in the Malay Peninsula from importing or exporting opium or chandu or from possessing or using the same in the course of his duty;
- (b) the surgeon of any ship, or, in the case of a ship which carries no surgeon, the master of such ship from importing or exporting opium or chandu in quantities not in excess of the reasonable medical requirements of the ship, or from possessing or using the same in the course of his duty;
- (c) any person appointed to perform any duty under the control or supervision of a medical officer of His Majesty's Forces, from possessing or using any opium or chandu under the directions of such medical officer and in the course of such duty;
- (d) any person to whom any opium or chandu has been issued for medical reasons by or under the directions of any medical officer of His Majesty's Forces, from possessing or using the same for the purposes and in the manner directed by such medical officer;
- (e) any officer or member of the crew of any ship to whom any opium or chandu has been issued for medical reasons by the surgeon of such ship or, in the case of a ship which carries no surgeon, by the master of such ship, from possessing or using such opium or chandu in reasonable quantity for the purposes and in the manner directed by such surgeon or master;
- (f) any person authorised under section 19 of this Proclamation to possess and use any opium or chandu, from possessing or using the same subject to the conditions, if any, under which he shall have been so authorised;
- (g) any qualified medical practitioner, veterinary surgeon or chemist from possessing or using opium in the exercise of his profession;
- (h) any chemist from selling opium prepared by him in accordance with a prescription signed by a registered medical practitioner or by a veterinary surgeon in the exercise of his profession.

21. Nothing done by any officer of the Civil Affairs Service in the course of his duties shall be deemed to be an offence against this Proclamation.

22. (1) The Comptroller may from time to time with the approval of the Deputy Chief Civil Affairs Officer make rules generally to give effect to the provisions of this Proclamation.

(2) Without prejudice to the generality of the foregoing the Comptroller may -

- i. prescribe powers to be exercisable by Chandu Officers for any of the following purposes -
  - the arrest and search of persons;
  - the search of premises;
  - the examination and detention of goods and baggage;
  - the examination of vehicles; and
  - the boarding of vessels and taking possession of opium and chandu found therein; and
- ii. provide for the disposal of forfeited articles,

the taking of photographs and finger impressions of arrested persons, the admissibility of certificates in evidence, the protection of informers from discovery, and for imprisonment in default of payment of fines.

Interpretation.

23. In this Proclamation and in any rule or order made thereunder unless the context otherwise requires -

"chandu" means the product of opium or any preparation in which opium forms an ingredient obtained by a series of special operations, especially by dissolving, boiling, roasting and fermentation designed to transform it into an extract suitable for consumption and includes chandu dross and re-prepared chandu dross but does not include -

- (a) any of the alkaloids or salts of the alkaloids of opium, or
- (b) opium or any preparation in which opium forms a part which is used or intended to be used by a chemist only in the preparation of a prescription signed by a duly qualified medical practitioner or veterinary surgeon in the exercise of his profession;

"chandu dross" means the refuse of chandu which has been used for smoking;

"Chandu Officer" means -

- (a) the Comptroller of Customs, any Deputy Comptroller of Customs, any Assistant Comptroller of Customs, any Senior Customs Officer or Customs Officers acting as such under the authority of the British Military Administration;
- (b) the Officer Commanding Civil Affairs Police and any Officer of the Civil Affairs Police not below the rank of Inspector; or
- (c) any Out-door Officer;

"Chief Chandu Officer" means the officer appointed as such under the provisions of section 2;

"chemist" means a chemist and druggist holding a certificate of competent skill and knowledge granted by the Council of King Edward VII College of Medicine, Singapore, or by such legally constituted pharmaceutical authorities of any country as the Senior Civil Affairs Officer (Medical) may approve:

Provided that no certificate shall be deemed sufficient which has been granted to the holder without examination, or which he has obtained without first having received a systematic training as a chemist and druggist;

"Comptroller" means the Staff Officer of the British Military Administration appointed to be or authorised to exercise the powers of Comptroller of Customs and Excise, and Deputy Comptroller of Customs and Assistant Comptroller of Customs have corresponding meanings;

"corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of any place outside the Malay Peninsula to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of opium in accordance with the provisions of the International Opium Convention signed at the Hague on the 23rd day of January, 1912, or of the International Opium Convention signed at Geneva on the 19th day of February, 1925; and any statement in any such certificate as to the effect of the law mentioned in the certificate or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive, and any such certificate shall be admitted in evidence upon production by or on behalf of the Comptroller in any proceeding;

"Customs Officer" and "Senior Customs Officer" mean persons acting as such under the authority of the British Military Administration;

"diversion certificate" means a certificate issued by the Government of any country to which opium originally exported under an export authorisation is brought in course of transit to another country authorising such opium to be diverted to a destination other than that named in the export authorisation and containing all the particulars which are required to be included in an export authorisation together with the name of the country from which such opium was originally exported;

"export authorisation" means a document issued by the Government of any country authorising the exportation of a specific quantity of opium from such country and containing the following particulars:

- i. the quantity of opium authorised to be exported;
- ii. the name and address of the exporter;
- iii. the period within which the exportation must be effected;
- iv. the number and date of an import certificate issued by the Government of the country into which the opium is to be imported authorising the importation;
- v. the proper description of the authority by whom the import certificate was issued; and
- vi. the name and address of the importer;

"import certificate" means a certificate issued by the Government of any country authorising a named person to import into such country a specific quantity of opium;

"opium" means the spontaneously coagulated juice obtained from the capsules of the papaver somniferum which has only been submitted to the necessary manipulations for packing and transport, and includes the leaves or wrappings in which opium balls have been wrapped;

"Out-door Officer" includes any Officer of Customs below the rank of Customs Officer and any police officer of the Civil Affairs Police below the rank of Inspector and any police constable of the Civil Affairs Police;

"re-prepared chandu dross" means chandu dross which has been subjected to any process or mixed with water or any other substance in order to render it suitable for smoking or eating;

"steam vessel" includes any vessel propelled by steam, electricity or other mechanical power;

"vessel" includes any ship or boat or any other description of vessel used in navigation or for the carriage or storage of goods;

"veterinary surgeon" means a person who holds the diploma of membership of the Royal College of Veterinary Surgeons of England, and includes a person holding any such diploma granted by a school of veterinary science as the Senior Civil Affairs Officer (Medical) may approve.

Certain laws  
superseded.

24. The provisions of this Proclamation supersede the laws relating to opium and chandu in force in the Straits Settlements, in the Federated Malay States and in any of the Unfederated Malay States.

Dated this 1st day of February, 1946.

A. T. NEWBOULT,  
Brigadier,  
Deputy Chief Civil Affairs Officer, Malay Peninsula.