



*United Nations*

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9 October 1950

## **LAWS AND REGULATIONS**

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF  
THE CONVENTION OF 13 JULY 1931 FOR LIMITING  
THE MANUFACTURE AND REGULATING THE DISTRIBUTION  
OF NARCOTIC DRUGS  
AS AMENDED BY THE PROTOCOL OF 11 DECEMBER 1946

## **NORTH BORNEO**

COMMUNICATED BY THE GOVERNMENT OF THE  
**UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Lake Success,  
New York, 1950

Note by the Secretary-General

In accordance with Article 21 of the Convention of 13 July 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 communicate hereafter the text of a law.

COLONY OF NORTH BORNEO

No. S152

No. 27 of 1949.

I assent,

J. CALDER,

Officer Administering  
the Government.

29th December, 1949.

An Ordinance to provide for the suppression of opium smoking.

Date of  
commencement.

29th December, 1949.

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IT IS HEREBY ENACTED by the Governor of the Colony of North Borneo in accordance with the provisions of Article 15 of the North Borneo Letters Patent, 1946, as follows :-

Short title.

1. This Ordinance may be cited as the Opium and Chandu Ordinance, 1949.

Interpretation.

2. In this Ordinance 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 pharmacist 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 Commissioner of Customs, any Deputy Commissioner of Customs, any Assistant Commissioner of Customs, or any Customs Officer appointed by the Commissioner to exercise all or any of the provisions of a Chandu Officer under the Ordinance;
- (b) any Police Officer not below the rank of Sergeant; or
- (c) any Out-door Officer;

"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 Colony 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; or any Convention in amendment or replacement thereof 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 Commissioner in any proceeding;

“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;

“Master” means with reference to a ship any person except a pilot or harbour master having for the time being control or charge of a ship and with reference to an aircraft the captain or person having for the time being control or charge of an aircraft;

“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 Assistant Commissioner of Customs and any Police Officer below the rank of Sergeant;

“Pharmacist” means a qualified pharmacist and druggist holding a certificate of competent skill and knowledge granted by any legally constituted pharmaceutical authorities of any country as the Director of Medical Services 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 pharmacist;

"reprepared 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 ship" includes any ship propelled by steam, electricity or other mechanical power;  
"vessel" includes any ship or aircraft 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 Director of Medical Services may approve.

Powers of Commissioner of Customs.

3. The Commissioner of Customs shall have the superintendence of all matters relating to opium and chandu.

Possession of pipe, etc. an offence.

4. (1) Any person who has in his possession any pipe, lamp, apparatus or utensil whatsoever used or normally used for the consumption or preparation of chandu or opium shall be guilty of an offence and shall be liable on conviction 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 of either description for twelve months or to both such fine and imprisonment.

Possession of opium or chandu an offence.

(2) Subject to the provisions of sections 21 and 22 of this Ordinance any person who after the commencement of this Ordinance has in his possession any opium or chandu shall be guilty of an offence and shall be liable on conviction to imprisonment of either description for a term not exceeding five years.

Smoking, etc. of chandu an offence.

5. (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.  
(5) Any person contravening the provisions of sub-section (1) of this section shall be guilty of an offence and shall be liable on conviction to imprisonment of either description for a term not exceeding one year and any person contravening the provisions of sub-sections (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.  
(6) In this section and in section 6 "consume" means eat, chew, smoke, swallow or drink.

Keeping premises for consumption of chandu for reward an offence.

6. (1) Any person who -
- (a) keeps or manages or acts or assists in the management of any premises wherein facilities are provided for 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 guilty of an offence and shall be liable on conviction 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 twelve 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 written law, 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.

7. (1) Subject to the exceptions specified in sections 21 and 22 of this Ordinance 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.

(2) Any person contravening the provisions of this section shall be guilty of an offence and shall be liable on conviction to imprisonment of either description for a term not exceeding three years.

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

8. (1) Subject to the exceptions specified in sections 11 and 22, no person shall import into or export from the Colony 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 guilty of an offence and shall be liable on conviction 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 of either description 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.

9. 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 guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand dollars or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

Penalty if vessel used for unlawful importation or exportation.

10. (1) If any vessel is used for the importation or exportation or attempted importation or exportation of any opium or chandu contrary to this Ordinance or for the receipt or storage of any opium or chandu imported contrary thereto the owner and Master thereof shall be guilty of an offence and shall each be liable on conviction 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 vessel shall be prima facie evidence that the vessel has been used for the importation or exportation or attempted importation or exportation of opium or chandu contrary to this Ordinance or for the receipt or storage of such opium or chandu imported contrary thereto.

Presumption as to importation.

11. (1) Opium and chandu found on board any vessel within the Colony or the waters of the Colony shall be deemed to have been imported:

Provided that -

(a) opium in original unbroken chests brought to a port in a vessel shall not be deemed to have been imported if the Master of such vessel has immediately upon the ar-



rival 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 ship of more than one hundred tons burden and claimed by the Master of such ship as part of the sea stores of such ship 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 ship to the next port of call outside the Colony;
  - (ii) such opium or chandu shall during the whole period of the ship'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 ship in port correct particulars of such opium or chandu shall be given by the Master to the proper Chandu Officer;
  - (iv) the Commissioner of Customs or any person authorised in writing either generally or in any particular instance by him 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 Colony.

Presumption  
as to  
exportation.

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

- (a) when such opium having been brought to a port in a vessel 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.

12. (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 Ordinance;
  - (b) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Ordinance;
  - (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 Ordinance 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 informa-  
tion, and  
giving of  
false  
information.

13. (1) Any person who -

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

(b) otherwise obstructs or hinders any Chandu Officer in effecting any entrance which he is entitled to effect under this Ordinance or any rule made thereunder or in making any inspection or search authorised by this Ordinance or by any such rule or in the execution of any duty imposed or power conferred by this Ordinance 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 guilty of an offence and shall be liable on conviction 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 Ordinance.

Penalty for  
offering or  
receiving  
bribes.

14. 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 guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand dollars or to imprisonment of either description 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 Ordinance may be evaded shall be guilty as an abettor and punishable as hereinafter provided.

General  
penalty.

15. Every omission or neglect to comply with and every act done or attempted to be done contrary to the provisions of this Ordinance, and every act done in the Colony to aid, abet, counsel or procure the commission in any place outside the Colony 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 Colony would constitute an offence against this Ordinance and every abetment of any such omission, neglect, act or attempt shall be deemed to be an offence against this Ordinance, 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 on conviction 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 of either description for a term not exceeding twelve months, or to both such fine and imprisonment.

Attempts and  
abetment.

16. Whoever attempts to commit any offence punishable under this Ordinance or any rule made thereunder or abets the commission of such offence shall be guilty of such offence and shall be liable on conviction to the punishment provided for such offence.

Powers of  
Magistrate.  
N.B.Ord.No.  
1 of 1926.

17. A Magistrate of the First Class shall notwithstanding anything contained in the Procedure Ordinance, 1926, or any act adopted thereunder have power to try any offence against this Ordinance or any rule made thereunder committed within any District in which such Magistrate has jurisdiction and shall have power to impose any penalty provided by this Ordinance or by such rule.

Forfeitures.

18. (1) All opium and chandu in respect of which any offence under this Ordinance or any rule made thereunder which is declared by such Rule to be an offence against such Rule 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 Magistrate 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 is a ship which exceeds one hundred tons burden or an aircraft.

(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 Magistrate having jurisdiction in the District in which the same was found, shall be forfeited.

(3) The forfeiture of any vessel under this Ordinance 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.

Power of Court  
to order con-  
ditional discharge  
of offender.

19. (1) Where any person is charged with any offence under this Ordinance and the Court considers that the charge is proved but is of opinion that the accused is an opium addict and that having regard to the character, antecedents, age, health, or mental condition

of the person charged, or to the extenuating circumstances under which the offence was committed it is inexpedient to inflict any punishment or any other than a nominal punishment the Court may, without proceeding to conviction, make an order discharging the offender conditionally on his entering into a recognizance with or without sureties -

- (a) to be of good behaviour during such period as may be specified in the order;
- (b) to submit to such treatment of such duration as in the opinion of the Court will be sufficient to enable the accused to overcome such addiction; and
- (c) to appear for conviction and sentence when called on at any time during such period as may be specified in the order.

(2) A recognizance ordered to be entered into under this section shall, if the Court so orders, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this section referred to as a probation order.

(3) A recognizance under this section may contain such additional conditions as the Court may, having regard to the particular circumstances of the case, order to be inserted therein including a condition that the accused shall undergo medical treatment at a specified medical institution, if necessary as an inpatient.

(4) The Court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

(5) In any case in which the Court suspects that the accused is an opium addict or in which the accused so alleges, the Court shall cause the accused to be examined by a Government Medical Officer and the Court may accept the written certificate of such Officer as to the existence or not of opium addiction and as to the duration of treatment sufficient to enable the accused to overcome such addiction.

#### Possession.

20. When in this Ordinance 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 Ordinance solely because he was in possession of any thing 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 any thing as the result of exercising any powers conferred or executing any duty imposed upon him by this Ordinance shall be guilty of any offence by reason only of such possession.

Power of  
Director of  
Medical  
Services to  
authorise possession  
of opium or chandu.

21. The Director of Medical Services or any Medical Officer appointed by him for the purpose, 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.

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

22. Nothing in this Ordinance shall be deemed to prevent -
- (a) any Medical Officer of His Majesty's Forces who is on duty in the Colony 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 21 of this Ordinance 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 Pharmacist from possessing or using opium in the exercise of his profession;
- (h) any Pharmacist 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.

Actions of officer no offence.

23. Nothing done by any officer of Government in the course of his duties shall be deemed to be an offence against this Ordinance.

Rules.

24. (1) The Governor may make Rules generally to give effect to the provisions of this Ordinance.

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

- (a) prescribe powers to be exercisable by Chandu Officers for any of the following purposes -
  - (i) the arrest and search of persons;
  - (ii) the search of premises;
  - (iii) the examination and detention of goods and baggage;
  - (iv) the examination of vehicles; and
  - (v) the boarding of vessels and taking possession of opium and chandu found therein;
- (b) 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 the imprisonment to be imposed in default of payment of fines; and
- (c) provide that the breach or contravention of any rule is an offence against such Rules and may provide a penalty for any such offence not exceeding two thousand dollars or imprisonment of either description for a term not exceeding twelve months or both such fine and imprisonment.

Repeal  
N.B.Ord.No.4  
of 1927.  
S.S. Cap.223.

25. The Opium and Chandu Ordinance, 1927, of North Borneo and the Chandu Revenue Ordinance of the Straits Settlements in so far as it applies to Labuan and all rules, regulations, orders, appointments, notifications and forms made, issued and prescribed thereunder are hereby repealed, revoked and cancelled.

Passed this 9th day of December, 1949.

Clerk of Advisory Council

(No.2107/49