



UNITED NATIONS

E/NL 1953/45-49
21 April 1953

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

PAKISTAN

COMMUNICATED BY THE GOVERNMENT OF
PAKISTAN

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 the following legislative texts.

New York, 1953

LEGISLATIVE DEPARTMENT
NOTIFICATION

The 3rd June 1950

No. 599-Leg. - The following Act received the assent of the Governor-General on the 17th May 1950, and is hereby promulgated for general information:-

PUNJAB ACT XV OF 1950

THE PUNJAB OPIUM SMOKING ACT, 1950

An Act to provide for the control of the practice of opium smoking with a view to secure ultimately its total prohibition in the Punjab.

Preamble.

WHEREAS the Governor of the Punjab has, in pursuance of the proclamation issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

NOW, THEREFORE, in exercise of the powers so assumed the Governor is hereby pleased to enact as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Punjab Opium Smoking Act, 1950.
- (2) It extends to the whole of the Punjab.
- (3) It shall come into force on such date as the Provincial government may, by notification, appoint in this behalf.

Repeal of enactments.

2. The Punjab Opium Smoking Act, 1923, is hereby repealed.

Definitions.

3. (1) In this Act, unless there is anything repugnant in the subject or context:-
 - (a) "Collector" has the meaning assigned to it in subsection (3) of section 3 of the Punjab Excise Act, 1914;
 - (b) "Excise Officer" means an officer of the Excise Department not below the rank of a Sub-Inspector;
 - (c) "Opium" has the meaning assigned to it in the Opium Act, 1878;
 - (d) "Prepared Opium" has the meaning assigned to it in the Dangerous Drugs Act, 1930;
 - (e) "Prescribed" means prescribed by this Act or the rules made thereunder;
 - (f) "Registered smoker" means a person registered as such under this Act or the rules made thereunder;
 - (g) "Medical Practitioner" means any person registered as Medical Practitioner under any law for the registration of medical practitioners for the time being in force in any part of Pakistan.

I of 1914

I of 1878

II of 1930

- (2) (a) "Opium Smoking Assembly"- An assembly of three or more persons shall constitute an opium smoking assembly if the object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation - An assembly which was not an opium smoking assembly when it assembled may subsequently become such an assembly.

(b) "*Member of Opium Smoking Assembly*" -

Whoever, being aware of the facts which render an assembly an opium smoking assembly intentionally joins that assembly or continues therein, is said to be a member of that assembly.

4. (1) The Provincial Government shall cause to be prepared a register containing a list of registered opium smokers in the Punjab.
- (2) The register shall be prepared and maintained by such authority (hereinafter called the registering authority) and in such manner and shall contain such particulars and shall be in such form as may be prescribed.
- (3) The register shall be closed two years after this Act comes into force and no entry shall be made therein after it has been closed:

Procedure of
Registration.

Provided that the Provincial Government may, by notification, direct that such register shall not be closed for such further period not exceeding two years as may be specified in such notification and that fresh entries may be made therein during such period.

5. (1) Any person not being under the age of twenty-five years who desires to become a registered smoker may, for that purpose, apply to the registering authority in the prescribed form accompanied by a certificate from a registered medical practitioner to the effect that the applicant is in the habit of opium smoking and that he cannot give it up without detriment to his health. The registering authority shall thereupon, subject to the provisions of this Act or any rules made thereunder, enter his name in the register.

Enrolment of
Registered
Smokers.

(2) As soon as the name of a person has been entered as a registered smoker, the registering authority shall grant him a certificate to that effect in the prescribed form.

6. A registered opium smoker shall, subject to such conditions as may be prescribed, be entitled to manufacture and possess prepared opium not exceeding 6 ma has for his personal use, and not for any other purpose, provided that such manufacture is from opium lawfully possessed for his own consumption.

Possession and
Manufacture.

7. No person other than a registered smoker may smoke opium, provided that a registered smoker shall not form an opium smoking assembly.

Prohibition of
Opium Smoking.

8. Except as permitted by this Act or by rules made thereunder, whoever-

Offences and
Penalties.

- (a) smokes prepared opium, or
- (b) is a member of an opium smoking assembly, shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000 or with both.

Penalty for allowing premises to be used for the commission of an offence.

9. Whoever being an occupier or owner of or having concern in the management of any premises permits such premises to be used or knowing or having reason to believe that such premises are being or are about to be used for the purposes of opium smoking or manufacture of prepared opium in contravention of the provisions of this Act, fails either himself or through his agent or manager to give the earliest possible notice of such knowledge or belief to the Collector or to an Excise Officer or to an officer in charge of the nearest Police Station shall be punishable with a fine which may extend to Rs.500.

Punishment in general.

10. Whoever is guilty of any act or intentional omission in contravention of the provisions of this Act, or of any rule, notification or order, or of the conditions of any certificate issued, made or given thereunder and not otherwise provided for in this Act shall be punishable for every such act or omission with a fine which may extend to fifty rupees.

Presumption as to possession of apparatus, etc.

11. Whenever any person other than a registered smoker is found in possession of any pipes or utensils for the smoking of opium or of any apparatus used in the manufacture of prepared opium it shall be presumed, unless the contrary is proved, that he is guilty of smoking opium or manufacturing prepared opium, and his conviction therefore shall not be invalid by reason only that it is based solely on this presumption.

Search warrants and power to search.

12. If a District Magistrate or Sub-Divisional Magistrate or a Magistrate of 1st class, upon information received and after such enquiry (if any) as he considers necessary, has reason to believe that any place is being or is likely to be used for the commission of an offence punishable under section 8 or 9, he may issue a warrant to an officer of the Excise Department not below the rank of a Sub-Inspector authorizing him-

- (a) to enter and search such place by day or night, with any person whose assistance such officer may consider necessary, for the discovery of any opium or any appliance for the preparation of opium or for opium smoking in such place;
- (b) to arrest and search all or any such persons as may be found in such place, whether they are actually engaged in opium smoking or not;
- (c) to seize all appliances for opium smoking or for the manufacture of opium which may be found in such place.

Powers of Excise Officers to search without warrant.

13. (1) Whenever an Officer of the Excise Department not below the rank of a Sub-Inspector has reason to believe that an offence punishable under section 8 or 9 has been, is being or is about to be committed in any place and that a search warrant under section 12 cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, after recording his reasons take such action as he could have taken if a warrant in respect of the said offence had been issued to him under section 12.

(2) The Officer taking any action under subsection (1) shall, so soon as possible, communicate in writing the grounds of his belief to the Magistrate having jurisdiction in the place.

14. When any person arrested under this Act is prepared to furnish a bail, he shall be released on bail or, at the discretion of the officer making the arrest, on the execution of a personal bond.

Bail.

15. Every officer of the Police and Revenue Departments shall be bound to give lawful aid to any Excise Officer while acting under the provisions of this Act upon notice given and request made.

Aid to Excise Officers.

16. On the conviction of any person for any offence under this Act the Court may order that any opium or any instrument or appliance in respect of or by means of which such offence has been committed, or any receptacle, package or covering in which such opium, instrument or appliance was found, shall be confiscated or destroyed.

Confiscation or destruction of opium and other things seized.

17. No Magistrate other than a Magistrate of the first class shall try any offence punishable under this Act.

Offences to be triable by first class Magistrate only.

18. No suit shall lie in any Civil Court for any act in good faith done or ordered to be done in pursuance of this Act.

Bar of certain suits.

19. (1) The Provincial Government may make rules to carry out the objects of this Act.

Power to make rules.

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

- (a) the authority by whom and the manner in which the register referred to in section 4 shall be prepared and maintained;
- (b) the form and contents of such register;
- (c) the form and manner of presentation of an application and manner of registration under section 5 (1);
- (d) the form of medical certificate;
- (e) the taking of proof regarding the age of an applicant under section 5 (1);
- (f) the form of certificate to be granted under section 5 (2);
- (g) conditions and restrictions, subject to which a registered smoker may manufacture, possess or smoke prepared opium;
- (h) disposal of articles confiscated under the Act; and
- (i) payment of rewards.

*Additional Secretary to Government, Punjab,
Legislative Department*

THE NORTH-WEST FRONTIER PROVINCE
OPIUM SMOKING ACT, 1950.

ACT No. III OF 1951.

*(Received the assent of the Governor-General, on the
18th January, 1951).*

AN

ACT

*to provide for the control of the practice of opium
smoking.*

Preamble-

Whereas it is expedient to control the practice of opium smoking with a view to secure ultimately its total prohibition in the North-West Frontier Province;

It is hereby enacted as follows:-

Short title, extent and commencement

1. (i) This Act may be called the North-West Frontier Province Opium Smoking Act, 1950.

(ii) It extends to the whole of the North-West Frontier Province.

(iii) It shall come into force on such date as the Provincial Government may, by notification, appoint in this behalf.

Repeal-

2. The following Notification and Act are hereby repealed:-

(a) The North-West Frontier Province Gazette Notification No. 174-G., dated the 14th January, 1925.

(b) The Punjab Opium (North-West Frontier Province Amendment) Act, I of 1935.

Definitions-

3. (1) In this Act, unless there is anything repugnant in the subject or context:-

(a) "Collector" has the meaning assigned to it in sub-section (3) of Section 3 of the Punjab Excise Act, 1914, as applied to North-West Frontier Province;

(b) "Excise Officer" means an officer of the Excise Department not below the rank of a Sub-Inspector;

(c) "Opium" has the meaning assigned to it in the Opium Act, 1878;

(d) "Prepared Opium" has the meaning assigned to it in the Dangerous Drugs Act, 1930;

(e) "Prescribed" means prescribed by this Act or the rules made thereunder;

(f) "Registered smoker" means a person registered as such under this Act or the rules made thereunder;

(g) "Medical Practitioner" means any person registered as Medical Practitioner under any law for the registration of medical practitioners for the time being in force in any part of Pakistan.

(2) (a) "Opium Smoking Assembly"- An assembly of three or more persons shall constitute an opium smoking assembly if the object of the persons composing that

assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation.- An assembly which was not an opium smoking assembly when it assembled may subsequently become such an assembly.

(b) "Member of Opium Smoking Assembly"- Whoever, being aware of the facts which render an assembly an opium smoking assembly intentionally joins that assembly or continues therein, is said to be a member of that assembly.

Procedure of registration-

4. (1) The Provincial Government shall cause to be prepared a register containing a list of registered opium smokers in the North-West Frontier Province.

(2) The register shall be prepared and maintained by such authority (hereinafter called the registering authority) and in such manner and shall contain such particulars and shall be in such form as may be prescribed.

(3) The register shall be closed two years after this Act comes into force and no entry shall be made therein after it has been closed:

Provided that the Provincial Government may, by notification, direct that such register shall not be closed for such further period not exceeding two years as may be specified in such notification and that fresh entries may be made therein during such period.

Enrolment of registered smokers-

5. (1) Any person not being under the age of twenty-five years who desires to become a registered smoker may, for that purpose, apply to the registering authority in the prescribed form accompanied by a certificate from a registered medical practitioner to the effect that the applicant is in the habit of opium smoking and that he cannot give it up without detriment to his health. The registering authority shall, thereupon subject to the provisions of this Act or any rules made thereunder, enter his name in the register.

(2) As soon as the name of a person has been entered as a registered smoker, the registering authority shall grant him a certificate to that effect in the prescribed form.

Possession and manufacture-

6. A registered opium smoker shall, subject to such conditions as may be prescribed, be entitled to manufacture and possess prepared opium not exceeding 6 mashes for his personal use, and not for any other purpose, provided that such manufacture is from opium lawfully possessed for his own consumption.

Prohibition of opium smoking-

7. No person other than a registered smoker may smoke opium, provided that a registered smoker shall not form an opium smoking assembly.

Offences and penalties-

8. Except as permitted by this Act or by rules made thereunder, whoever-

(a) smokes prepared opium, or

(b) is a member of an opium smoking assembly, shall, on conviction by a Magistrate, be punishable with imprisonment for term which may extend to one year or with fine which may extend to Rs. 1,000 or with both.

Penalty for allowing premises to be used for the commission of an offence-

9. Whoever being an occupier or owner of or having concern in the management of any premises permits such premises to be used or knowing or having reason to believe that such premises are being or are about to be used for the purposes of opium smoking or manufacture of prepared opium in contravention of the provisions of this Act, fails either himself or through his agent or manager to give the earliest possible notice of such knowledge or belief to the Collector or to an Excise Officer or to an

officer in charge of the nearest Police Station, shall be punishable with a fine which may extend to Rs. 500.

Punishment in general-

10. Whoever is guilty of any act or the intentional omission in contravention of the provisions of this Act, or of any rule, notification or order, or of the conditions of any certificate issued, made or given thereunder and not otherwise provided for in this Act shall be punishable for every such act or omission with a fine which may extend to fifty rupees.

Presumption as to possession of apparatus, etc.-

11. Whenever any person other than a registered smoker is found in possession of any pipes or utensils for the smoking of opium or of any apparatus used in the manufacture of prepared opium it shall be presumed, unless the contrary is proved, that he is guilty of smoking opium or manufacturing prepared opium, and his conviction therefore shall not be invalid by reason only that it is based solely on this presumption.

Search warrants and power to search-

12. If a District Magistrate or Sub-Divisional Magistrate or a Magistrate of 1st Class, upon information received and after such enquiry (if any) as he considers necessary, has reason to believe that any place is being or is likely to be used for the commission of an offence punishable under Section 8 or 9, he may issue a warrant to an officer of the Excise Department not below the rank of a Sub-Inspector authorising him-

- (a) to enter and search such place by day or night, with any person whose assistance such officer may consider necessary, for the discovery of any opium or any appliance for the preparation of opium or for opium smoking in such place;
- (b) to arrest and search all or any such person as may be found in such place, whether they are actually engaged in opium smoking or not;
- (c) to seize all appliances for opium smoking or for the manufacture of opium which may be found in such place.

Powers of Excise Officers to search without warrant-

13. (1) Whenever an Officer of the Excise Department, not below the rank of a Sub-Inspector has reason to believe that an offence punishable under Section 8 or 9 has been, is being or is about to be committed in any place and that a search warrant under Section 12 cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may at any time, after recording his reasons, take such action as he could have taken if a warrant in respect of the said offence had been issued to him under Section 12.

(2) The Officer taking any action under subsection (1) shall, so soon as possible, communicate in writing the grounds of his belief to the Magistrate having jurisdiction in the place.

Bail-

14. When any person arrested under this Act is prepared to furnish a bail, he shall be released on bail, or at the discretion of the officer making the arrest, on the execution of a personal bond.

Aid to Excise Officers-

15. Every Officer of the Police and Revenue Department shall be bound to give lawful aid to any Excise Officer while acting under the provisions of this Act, upon notice given and request made.

Confiscation or destruction of Opium and other things seized-

16. On the conviction of any person for any offence under this Act the Court may order that any opium or any instrument or appliance in respect of or by means of which such offence has been committed, or any receptacle, package or covering in which such opium, instrument or appliance was found, shall be confiscated or destroyed.

Offences to be triable by First Class Magistrate only-

17. No Magistrate other than a Magistrate of the First Class shall try any offence punishable under this Act.

Bar of Certain Suits-

18. No suit shall lie in any Civil Court for any act in good faith done or ordered to be done in pursuance of this Act.

Power to make rules-

19. (1) The Provincial Government may make rules to carry out the objects of this Act.

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

- (a) the authority by whom and the manner in which the register referred to in Section 4 shall be prepared and maintained;
- (b) the form and contents of such register;
- (c) the form and manner of presentation of an application and manner of registration under Section 5 (1) and prescribe fee therefor;
- (d) the form of medical certificate;
- (e) the taking of proof regarding the age of an applicant under Section 5 (1);
- (f) the form of certificate to be granted under Section 5 (2);
- (g) conditions and restrictions, subject to which a registered smoker may manufacture, possess or smoke prepared opium;
- (h) disposal of articles confiscated under the Act; and
- (i) payment of rewards.

Peshawar:

The 30th January, 1951.

E/NL.1953/47

SIND ACT NO: XVII OF 1950.

(First published, after having received the assent of the Governor in the Sind Government Gazette on the 27th April 1950).

AN ACT TO AMEND THE SIND OPIUM SMOKING ACT, 1940.

WHEREAS it is expedient to amend the Sind Opium Smoking, Act, 1940, for the purpose hereinafter appearing; it is hereby enacted as follows:-

*Sind XX
of 1940.*

- Short title. 1. This act may be called the Sind Opium Smoking (Amendment) Act, 1950.
- Amendment of section 8 of Sind Act XX of 1940. 2. In section 3 of the Sind Opium Smoking Act, 1940, -
- (a) in sub-section (1) the brackets and figure "(1)" shall be omitted;
 - (b) sub-section (2) shall be omitted.

*Sind XX
of 1940.*

GOVERNMENT OF PAKISTAN

MINISTRY OF STATES AND FRONTIER REGIONS

NOTIFICATION

Karachi, the 29th September 1950

No. D. 5692-B/50.--In exercise of the powers conferred by sub-section (3) of section 95 of the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Regulation, for Baluchistan, namely:-

REGULATION No. IV OF 1950

A Regulation to provide for the prohibition of opium smoking in Baluchistan

WHEREAS it is expedient to prohibit the smoking of opium in Baluchistan; It is hereby enacted as follows:-

1. *Title and Commencement.*-(1) This Regulation may be called Baluchistan Opium Smoking Regulation 1950;
- (2) It shall be deemed to have come into force on the 29th day of September 1950.
2. The provisions in the Schedule to this Regulation shall be applicable to Baluchistan subject to the modifications specified below, namely:
 - (i) For sub-section (2) of Section 1, the following shall be substituted:-
"It extends to the whole of Baluchistan".
 - (ii) All references to-
 - (a) the Provincial Government,
 - (b) the Province of Sind or Sind,
 - (c) the Government of Sind,
 - (d) the Chief Court of Sind, and
 - (e) the Act.shall be respectively construed as references to-
 - (a) the Chief Commissioner in Baluchistan,
 - (b) Baluchistan,
 - (c) the Baluchistan Administration,
 - (d) the Judicial Commissioner in Baluchistan, and
 - (e) the Regulation.
 - (iii) Sub-section (3) of section 1, shall be omitted.

SCHEDULE

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*-(1) This Act may be called the Sind Opium Smoking Act, 1940.
- (2) It extends to the whole of the Province of Sind.
- (3) It shall come into force on such date as the Provincial Government, may, by notification in the Official Gazette, appoint.

2. *Definitions.*--In this Act, unless there is anything repugnant in the subject or context,--

- (a) "Opium" has the same meaning as is assigned to it in the Opium Act, 1878 (I of 1878), and includes prepared opium as also Chandu, Madat, buffa, opium dross or scrappings from the opium pipe and every other preparation or admixture of opium which may be used for smoking;
- (b) "prepared opium" means 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;
- (c) "place" includes a building, house, enclosure, shop, booth, tent, vessel, raft and vehicle, and any part thereof;
- (d) "Collector" means the Chief Officer-in-Charge of the revenue administration of a district, and includes any officer whom the Provincial Government may, by notification, declare or appoint to be a Collector for the purposes of this Act;
- (e) "Commissioner" means the Revenue Commissioner for Sind;
- (f) "duly empowered" means duly empowered by the Provincial Government by a general or special order;
- (g) "instrument of smoking" means any pipe or apparatus used for the purpose of smoking or preparing opium for smoking purposes.

CHAPTER II

OFFENCES AND PENALTIES

3. *Penalty for smoking opium or possessing an instrument of smoking.*--(1) Except as hereinafter provided any person smoking opium or possessing an instrument of smoking shall be punished with fine which may extend to fifty rupees or imprisonment of either description for a term which may extend to one month, or with both.

(2) The Provincial Government or any officer duly empowered may on such terms and subject to such conditions as may be prescribed by rules made under this Act exempt from the operation of sub-section (1) any person who, at the date of the commencement of this Act, is addicted to the smoking of opium.

4. *Penalty for smoking opium in company.*--If two or more persons smoke opium in company, each of them shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Explanation.--A man and his wife smoking opium together shall not be deemed to be smoking in company within the meaning of this section.

5. *Opium-smoking assembly.*--An assembly of two or more persons is designated an opium-smoking assembly if the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation 1.--An assembly which was not an opium-smoking assembly when it assembled may subsequently become such an assembly.

Explanation 2.--A man and his wife shall not be deemed to be an opium-smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

6. *Member of opium-smoking assembly.*--Whoever being aware of facts which render an assembly an opium-smoking assembly intentionally joins that assembly for the purpose of smoking opium, or of preparing opium for smoking or continues therein for that purpose shall be deemed to be a member of that assembly.

7. *Presumption raised by presence of opium and opium smoking apparatus.*--The presence of any opium and of any instrument of smoking in any place where two or more persons are assembled shall be held sufficient to raise a presumption that such

persons have assembled at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

8. *Penalty for being member of opium-smoking assembly.*--Whoever is a member of an opium-smoking assembly shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

9. *Penalty for opening, keeping or having charge of place used for such assembly.*--Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purposes of any opium-smoking assembly, or has the care of management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. *Enhancement of punishment on second conviction.*--Whoever having been previously convicted of an offence under section 3, or section 8 or section 9 is again convicted of an offence under any of these sections, shall be liable to twice the punishment which might be imposed on a first conviction.

11. *Security for abstaining from offences.*--(1) Whenever any person is convicted of an offence punishable under this Chapter, 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 this Chapter, the Court may, at the time of passing sentence on such persons, 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 the Schedule annexed to this Act and the provisions of the Code of Criminal Procedure, 1898 (V of 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 Chief Court of Sind when exercising its power of revision.

CHAPTER III

PROCEDURE

12. *Power to issue warrants.*--The Commissioner, Collector or any officer of the Excise Department duly empowered or a Magistrate authorised under section 26 to take cognizance of offences under this Act may issue a warrant for the arrest of any person whom he has reason to believe, to have committed an offence under this Act, or for the search, whether by day or by night, of any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed, or in which opium or an instrument of smoking is kept or concealed.

13. *Power of entry, search and arrest by certain officers.*--The Commissioner, Collector or any officer duly empowered, who has reason to believe that an offence under Chapter II has been, or is being or is likely to be, committed in any place, may--

- (a) enter such place by day or by night with any person whose assistance he may consider necessary;
- (b) search any such place in which he has reason to believe that any opium or instrument of smoking is kept or concealed;

- (c) detain and search and, if he thinks proper, arrest any person found in such place or whom he has reason to believe to have committed an offence punishable under Chapter II; and
- (d) seize all opium and instruments of smoking which may be found in such place or on or about such person.

14. *Mode of making searches and arrests.*--(1) The provisions of the Code of Criminal Procedure, 1898 (V of 1898), shall apply, so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests and searches made under this Act.

(2) All such warrants shall be executed by a police officer, or an officer of the Excise Department duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person.

15. *Arrest of persons obstructing officers in execution of duties under the Act.*-- The Commissioner, Collector or any officer duly empowered may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duty under this Act, or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

16. *Disposal of persons arrested and of articles seized.*--(1) Every person arrested and articles seized under a warrant issued under section 12 shall be forwarded without delay to the authority by whom the warrant was issued and every person arrested and article seized under section 13 or section 15 shall be forwarded without delay to--

- (a) the nearest officer of the Excise Department empowered under section 18, or
- (b) the officer-in-charge of the nearest police station within the meaning of the Code of Criminal Procedure, 1898 (V of 1898).

(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.

17. *Refusal to give name and residence.*--(1) When any person who, in the presence of any officer of such rank as the Provincial Government may, by general or special order, specify in this behalf, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false he may be arrested by such officer in order that his name and residence may be ascertained.

(2) When the correct name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in British India the bond shall be secured by a surety or sureties residing in British India.

(3) Should the correct name and residence of such person not be ascertained within 24 hours from the time of arrest, and should he fail to execute the bond, or, if he is so required, to furnish sufficient sureties, he shall be forthwith forwarded to the nearest Magistrate having jurisdiction.

18. *Certain officers empowered to investigate offences under the Act.*--(1) The Commissioner, Collector and any officer of the Excise Department duly empowered, in this behalf shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898 (V of 1898), upon an officer-in-charge of a police station for the investigation of a cognizable offence:

Provided that--

- (a) If such officer is of opinion that there is not a sufficient evidence or

reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate or that the person arrested may be discharged with a warning such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required, before a Magistrate and shall make a full report of the case to his superior officer, if any, and be guided by the order which he shall receive on such report;

- (b) the powers of such officer other than the Commissioner or Collector shall be subject to such further modifications or restrictions as the Provincial Government may determine.

19. *Bail and security.* --When any person arrested under this Act is prepared to furnish bail he shall be released on bail or, at the discretion of the officer making the arrest, on his own bond,

20. *Aid to Excise Officers.* --All village officers, all village servants and all officers of the Police, Forest and Revenue Departments shall be found--

- (a) to give immediate information to an Excise Officer of the commission of any offence, and of the intention or preparation to commit any offence under this Act which may come to their knowledge;
- (b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed;
- (c) to assist any Excise Officer in carrying out the provisions of the Act.

21. *Duty of owners and occupiers of land to report offences.* --Every owner or occupier of a place and the agent of any such owner or occupier in which there shall be any preparation or admixture of opium which may be used for smoking shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Departments referred to in the foregoing section immediately the same shall have come to his knowledge.

22. *Penalty for neglecting to assist officers acting under the Act.* --Any officer or person mentioned in sections 20 and 21 who without lawful excuse neglects or refuses to give information or to take preventive measures or to give assistance or to give notice to any of the officers mentioned in section 20 or section 21 in the manner required by those sections shall, on conviction, be punished with fine which may extend to Rs. 500.

23. *Penalty for vexatious search or arrest.* --Any officer empowered under this Act who--

- (a) without reasonable ground of suspicion, enters or searches, or causes to be searched any place, or
- (b) vexatiously and unnecessarily seizes the property of any person on the pretext of seizing or searching for anything liable to confiscation under this Act, or
- (c) vexatiously and unnecessarily detains, searches or arrests any person shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month, with fine which may extend to Rupees five hundred or with both.

24. *Things liable to confiscation.* --Whenever any offence under this Act has been committed, all opium and instruments of smoking found in the place or with the persons forming an opium-smoking assembly, together with the receptacles, packages or coverings, shall be liable to confiscation.

25. *Procedure in making confiscation.* --(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 Act is liable to confiscation under the preceding section, and if it decides that the article is so liable, it may order its confiscation accordingly.

(2) When any article seized under this Act appears liable to confiscation under the preceding section but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer duly empowered 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 support of his claim:

Provided further that if any such article, other than opium, 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.

26. *Cognizance of offences.*--No Magistrate shall take cognizance of an offence punishable under this Act except on the complaint or report of the Collector or an officer of the Excise Department not below the rank of an Assistant Inspector or of the Police Department not below the rank of a Sub-Inspector.

CHAPTER IV

MISCELLANEOUS

27. *Bar of certain suits.*--No suit shall lie in any civil court against the Province of Sind or any Collector or officer of the Excise or Police Department for damages for anything in good faith done or ordered to be done in pursuance of this Act or the rules made thereunder.

28. *Limitations of suits and prosecutions.*--No suit shall be instituted against the Province of Sind and no prosecution or suit shall lie against any officer in respect of anything done or alleged to have been done in pursuance of this Act, unless such suit or prosecution has been instituted within six months of the date of the act complained of:

Provided that nothing herein contained shall apply to any prosecution instituted by or under the order of the Provincial Government or to any complaint made under section 476 or section 476A or section 476B of the Code of Criminal Procedure, 1898 (V of 1898).

29. *Tender of pardon to accused person turned approver.*--(a) Whenever two or more persons are prosecuted for any offence under this Act, the Magistrate may, if, for reasons to be recorded by him, he thinks fit, tender to any accused a pardon on condition of his making a full and true disclosure of all facts connected with the offence.

(b) Such accused person shall, on accepting the tender, be a competent witness in the case and shall not be liable to punishment so long as the pardon remains in force.

30. *Delegation of powers.*--The powers conferred on the Commissioner or Collector under this Act may, subject to the general or special orders of the Provincial Government, be delegated by the Commissioner or Collector, in whole or in part, to any subordinate officer.

31. *Power to make rules.*--(1) The Provincial Government may make rules to carry out the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing

power such rules may--

- (a) regulate the disposal of things confiscated under this Act;
- (b) prescribe and regulate the payment of rewards; and
- (c) provide for any other matter for which there is no provision or there is insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the provisions of this Act.

(3) All rules made under this section shall be subject to the conditions of being made after previous publication.

(4) Rules made under this section shall be laid down upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by notification in the official Gazette, be deemed to have come into force.

32. *Certain officers to be public servants.*--All officers empowered under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Governor-General.

SCHEDULE

*Bond to Abstain from the Commission of Offences under the Sind
Opium Smoking Act, 1940.*

(SECTION II)

Whereas I (name) inhabitant of (place), have been called upon to enter into a bond to abstain from the commission of offences under sections 3, 4, 5, 6, 7, 8, 9 and 10 of the Sind Opium Smoking Act, 1940, 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 His Majesty the King Emperor of India, the sum of rupees

Dated this day of 19

(Where a bond with sureties is to be executed, add--)

We do hereby declare ourselves sureties for the abovementioned that he will abstain from the commission of offence under sections 3, 4, 5, 6, 7, 8, 9 and 10 of the Sind Opium Smoking Act, 1940, during the said terms and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees

Dated this day of 19

(Signature)

Governor-General.

Secretary to the Government of Pakistan.

GOVERNMENT OF EAST BENGAL

LEGISLATIVE DEPARTMENT

East Bengal Act XVI of 1951

**THE BENGAL OPIUM SMOKING (AMENDMENT
AND EXTENSION) ACT, 1951.**

(Passed by the Assembly on the 1st March, 1951.)

[Assent of the Governor was first published in the "Dacca Gazette, Extraordinary", dated the 5th April, 1951.]

An Act to amend the Bengal Opium Smoking Act 1932 and to extend its provisions to the district of Sylhet.

Ben. Act
X of 1952.

WHEREAS it is expedient to amend the Bengal Opium Smoking Act, 1932, and to extend its provisions to the district of Sylhet for the purpose and in the manner hereinafter appearing;

Ben. Act
X of 1952

It is hereby enacted as follows:-

Short title.

1. This Act may be called the Bengal Opium Smoking (Amendment and Extension) Act, 1951.

Application of Act.

2. The Bengal Opium Smoking Act, 1932 (hereinafter referred to as the said Act), shall, in its application to East Bengal, be amended in the manner hereinafter provided.

Amendment of section 2 of Bengal Act X of 1952.

3. In section 2 of the said Act, clause (3) shall be deleted.

Amendment of section 3 of Bengal Act X of 1952.

4. In section 3 of the said Act, after the word "whoever" the words "not being registered" and the commas preceding and following them shall be omitted.

Amendment of section 4 of Bengal Act X of 1952.

5. In line 1 of section 4 of the said Act, after the word "person" the words "not being registered" and the commas, preceding and following them shall be omitted.

Amendment
of section 5
of Bengal
Act X of
1932.

6. In section 5 of the said Act -

- (a) after the word "person" the words "whether an opium smoker or not" and the commas preceding and following them shall be omitted; and
- (b) the "Exception" to that section shall be deleted.

Amendment
of section 6
of Bengal
Act X of
1932.

7. In line three of section 6 of the said Act, after the word "persons" the words "whether registered or not" and the commas, preceding and following them shall be omitted.

Amendment
of section 7
of Bengal
Act X of
1932.

8. In line one of section 7 of the said Act, after the word "persons" the words "whether registered or not" and the commas, preceding and following them shall be omitted.

Insertion of
new section
7A to Bengal
Act X of
1932.

9. After section 7 of the said Act, the following new section shall be added, namely:-

"7A. Whoever having been convicted of an offence punishable under sections 5, 6 or 7, shall be guilty of any offence punishable under any of those sections, shall be liable for each such subsequent offence to twice the punishment which might be imposed on a first conviction under this Act."

Amendment
of section 8
of Bengal
Act X of
1932.

10. In line three of section 8 of the said Act, after the word "persons" the words "whether registered or not" and the commas preceding and following them shall be omitted.

Amendment
of section 9
of Bengal
Act X of
1932.

11. For section 9 of the said Act, the following shall be substituted, namely:-

- "9 (1) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, the Provincial Government may make rules-
 - (a) regulating the disposal of things confiscated under this Act, and
 - (b) prescribing and regulating the payment of rewards to officers and informers."

Amendment of
section 10
of Bengal
Act X of
1932.

12. In section 10 of the said Act, before the words "a Magistrate of the first class" the word "or" shall be omitted and before the words "upon information" the words "or a Superintendent of Excise" shall be inserted.

13. In sub-section (2) of section 11 of the said Act, after the words "a Collector" the words "or a Superintendent of Excise" shall be *inserted*.

Amendment of section 11 of Bengal Act X of 1932.

14. In sections 12 and 13 of the said Act, after the words "a Collector" and "the Collector" wherever they occur, the words "or a Superintendent of Excise" and "or the Superintendent of Excise" respectively shall be *inserted*.

Amendment of sections 12 and 13 of Bengal Act X of 1932.

15. (1) The Bengal Opium Smoking Act, 1932, as amended by this Act, shall apply to the district of Sylhet.

Application of Bengal Act X of 1932 to the district of Sylhet and repeal of Assam Act No. III of 1927.

(2) The Assam Opium Smoking Act, 1927, in its application to the district of Sylhet, is hereby repealed.