



UNITED NATIONS

## 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

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# JAMMU AND KASHMIR

COMMUNICATED BY THE GOVERNMENT OF  
INDIA

**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 text.

*New York, 1953*

JAMMU AND KASHMIR GOVERNMENT

The Jammu and Kashmir Opium Smoking Act, 2007.

An Act to provide for the control of the practice of Opium Smoking in the Jammu and Kashmir State.

Act No. VII of 2007

Whereas it is desirable to control the practice of opium smoking and to prevent the assembling of persons for the purpose of opium smoking;

Now, therefore, in exercise of the powers reserved under section 5 of the Jammu and Kashmir Constitution Act, 1996, and read with the proclamation issued by His Highness and published in the Extraordinary issue of the Government Gazette dated 7th Har, 2006, Yuvaraj Shri Karansinghi Bahadur is pleased to enact as follows:-

1. (1) This Act may be called the Jammu and Kashmir Opium smoking Act, 2007.  
*Short title, extent and commencement.* (2) It extends to the whole of the Jammu and Kashmir State  
(3) It shall come into force on such date as the Government may by notification appoint in this behalf.

2. In this Act unless there is anything repugnant in the subject or context -  
*Definitions.* (a) "Opium" means *chandu*, madak, and every other preparation or admixture of opium which may be used for smoking.  
(b) "Place" includes a building, house, shop, boat chappar, tent, vessel, raft and vehicle and any part thereof.

3. Assembly of three or more persons is designated an opium smoking assembly if the  
*Opium Smoking assembly* common 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.

4. Whoever, being aware of facts which render an assembly an opium smoking assembly  
*Member of opium smoking assembly* when it assembled, intentionally joins that assembly or continues therein is said to be member of that assembly.

5. The presence of any opium and of any pipes for smoking of opium or of any  
*Presumption raised by presence of opium or opium smoking appliances* apparatus used in the preparation of opium in any place where three or more persons are assembled shall be held sufficient to raise a presumption that each member of such assembly is present at such place for the purposes of smoking opium or of preparing opium for smoking purposes.

6. Whoever is a member of an opium smoking assembly shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.  
*Penalty for being member of opium smoking assembly*

7. Whoever opens, keeps or uses any place or permits any place to be opened kept  
*Penalty for opening, keeping or having charge of place used for such assembly* or used, for the purposes of an opium smoking assembly, or has the care or 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 for a term which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.

8. Whoever, being the owner of any place, and knowing or having reason to believe  
*Penalty when owner fails to give notice of use of place for such assembly* that such place, whether in his actual occupation or otherwise, if being or is about to be used for the purposes of an opium smoking assembly 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 the officer in charge of the nearest police station or to an Excise Officer, shall be punished with fine which may extend to five hundred rupees.

9. Whoever, having been previously convicted of an offence under sections 6, 7 or  
*Enhancement of punishment on second conviction* 8 is again convicted of an offence under this Act, shall be liable for such subsequent offence to twice the punishment which might be imposed on a first conviction.

10. If a District Magistrate or Sub-Divisional Magistrate upon information received  
*Search warrants and power to search* and after such inquiry (if any) as he considers necessary, has reason to believe that any place is being, or is likely to be, used for the purposes of an opium smoking assembly, he may issue a warrant to an officer of the Excise Department, not below the rank of an Inspector, authorising him.

- (a) to enter such place by day or night with any persons whose assistance such officer may consider necessary;
- (b) to search all parts of such place in which such officer has reason to believe that any opium or any appliance for the preparation of opium or for opium smoking is concealed and all or any persons whom he may find in such place;
- (c) to arrest all persons whom such officer may find in such place, whether they are actually engaged in smoking opium or not;
- (d) to seize all opium and appliances for opium smoking or for the manufacture of opium which may be found in such place.

11. The provisions of the Code of Criminal Procedure, 1989, shall apply to the execution of warrants and to searches made under the foregoing section.  
*Application of the Code of Criminal Procedure, 1989 to warrants and searches*

12. Whenever any officer makes any arrest or seizure under this Act, he shall without delay and in any case within forty-eight hours forward every person arrested and every thing seized with a full report of all particulars of the arrest or seizure to the Magistrate by whom the warrant was issued.  
*Reports to be made in case of arrest or seizure*

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

14. Every Officer of the police and Revenue Department shall be bound to give reasonable aid to any Excise Officer in carrying out the provisions of this Act upon notice given and request made.  
*Aid to Excise Officers*
15. 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, and any other contents of such receptacle, package or covering, shall be confiscated or destroyed.  
*Confiscation and destruction of opium and things seized*
16. No Magistrate other than Magistrate of the first class shall try any offence punishable under this Act.  
*Offence to be triable by first class Magistrate only*
17. No suit shall lie in any Civil Court against the Government or any Excise Officer for damage for any act in good faith done or ordered to be done in pursuance of this Act.  
*Bar of certain suits*
18. (1) The 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 powers such rules may:  
(a) regulate the disposal of things confiscated under this Act;  
(b) prescribe and regulate the payment of rewards out of fines imposed under this Act.

Published for general information.

Secretary to Prime Minister.

True copy

Finance Secretariat.