

The M.P. Opium Smoking Act, 1929

MADHYA PRADESH

India

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Act 4 of 1929

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The M.P. Opium Smoking Act, 1929M.P. Act No. 4 of 1929An Act to provide for the control of the practice of opium smoking and to secure the ultimate prohibition of opium smokingWhereas it is expedient to control the practice of opium smoking, to prevent the assembling of persons for the purpose of such practice and to secure the ultimate prohibition of opium smoking;And whereas the previous sanction of the Governor-General to the passing of this Act, as required by Section 80-A, sub-section (3), of the Government of India Act, has been obtained;It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the [Madhya Pradesh] [Substituted by M.P. Act No. 23 of 1958.] Opium Smoking Act, 1929.(2)[It extends to and shall be in force in whole of Madhya Pradesh.] [Substituted by M.P. Act No. 23 of 1958.]

2. Definitions.

- In this Act unless there is anything repugnant in the subject or context,-(a)"opium" means chandu, madak and every preparation or admixture of opium which may be used for smoking and includes dross and other residues remaining when opium has been smoked;(b)"place" includes a building, house, shop, booth, tent, vessel, raft, vehicle and enclosure, and any part thereof;(c)"Collector" means the Chief Officer in charge of the revenue administration of a district, and includes any officer whom the State Government may, by notification, declare or appoint to be a Collector for the purpose of this Act.

3. 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. - An assembly which was not an opium smoking assembly when it assembled

may subsequently become such an assembly.

4. Member of opium smoking assembly.

- Whoever being aware of 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.

5. Presumption raised by presence of opium and opium smoking apparatus.

- The presence of any opium and, if any pipes or apparatus for the smoking of opium or of any apparatus for the preparation of opium, 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.

6. Penalty for being member of opium smoking assembly.

- Whoever is a member of an opium smoking assembly shall be punished with simple imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

7. [Penalty for smoking opium and for possessing opium, etc. [Substituted by C.P. Act No. 2 of 1934.]

(1)It shall be unlawful for any person-(a)to possess or smoke opium; or(b)to possess any pipe or apparatus for the purpose of smoking opium or of preparing opium for smoking purposes.(2)Any person who commits an offense under sub-section (1) shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both; and any person who abets such offense shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.]

8. Penalty for opening, keeping or having charge of place used for opium smoking assembly.

- Whoever opens, keeps or uses any place, or permits any place to be opened, kept 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 of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

8A. [Exception. [Inserted by M.P. Act No. 12 of 1950.]

- Nothing contained in Sections 6, 7 and 8 shall apply in respect of any person or class of persons residing in any part of the [State] who may be exempted by a notification issued in that behalf by the State Government.]

9. Enhancement of punishment on second conviction.

- Whoever having been previously convicted of an offense under Section 6, [7] [Inserted by C.P. Act No. 2 of 1934.] or Section 8 is again convicted of an offense under this Act shall be liable to be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

10. Penalty when owner fails to give notice of use of place for opium smoking assembly.

- Whoever being the owner, occupier or in charge of any place and knowing or having reason to believe that such place is being, or is about to be used for the purpose of an opium smoking assembly, intentionally omits, either himself or through his agent or manager, to give the earliest possible notice of such knowledge or belief to nearest Magistrate or to the officer-in-charge of the nearest police-station or to the Excise Officer shall be punished with fine which may extend to five hundred rupees.

11. Search warrants and power to search.

(1) If a Magistrate of the first or second class upon information received and after such enquiry (if any) as he considers necessary' has reason to believe that [the smoking of opium is carried on in any place or that] [Inserted by C.P. Act No. 2 of 1934.] any place is used for the purposes of an opium smoking assembly [or of keeping opium] [Inserted by M.P. Act No. 12 of 1950.], he may-(a) enter any such place by day or night with any person whose assistance such officer may consider necessary; (b) search all parts of such place in which such officer has reason to believe that any opium or any apparatus for the preparation of opium or for opium smoking is concealed and all or any persons he may find in such place; (c) arrest any person found in such place whom he has reason to believe to be guilty of an offense under this Act; (d) seize all opium and apparatus from opium smoking or for the preparation of opium which may be found in such place; or (e) give an authority by special warrant under his hand, when in his discretion he shall think fit, to any Excise or Police Officer, not below the rank of a sub-inspector, authorizing him to do any of the acts specified in clause (a), (b), (c) or (d) of this sub-section. (2) Whenever any Excise or Police Officer, not below the rank of sub-inspector, has reason to believe that [the smoking of opium is carried on in any place or that] [Inserted by C.P. Act No. 2 of 1934.] any place is used for the purposes of an opium smoking assembly [or of keeping opium] [Inserted by M.P. Act No. 12 of 1950.], and that a search warrant cannot be obtained without affording the offenders and opportunity of escape or of concealing evidence of the offense, he may after recording the grounds of his belief do any of the acts specified

in clause (a), (b), (c) or (d) of sub-section (1).

12. Application of the Code of Criminal Procedure, 1898 to warrants and searches.

- The provisions of the Code of Criminal Procedure, 1898 as amended shall apply to the execution of warrants issued and searches made under Section 11.

13. Report to be made in case of arrest or seizure.

- Whenever any officer makes any arrest or seizure under this Act, he shall, within twenty-four hours next after such arrest or seizure, make a full report of all particulars thereof to his immediate official superior; and every person arrested and thing seized shall be forwarded without delay to the officer by whom the warrant was issued or to the nearest police-station.

14. 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.

15. Aid to Excise Officers.

- Every officer of the Police and Land Revenue Departments, every headman and every village watchman shall be bound to give reasonable aid to any Excise Officer carrying out the provisions of this Act upon notice given and request made.

16. Confiscation or destruction of opium and things seized on conviction.

- On the conviction of any person for an offense under this Act the Court may order that any opium or any instrument or apparatus in respect of, or by means of which such offense has been committed or any receptacle, package or covering in which such opium, instrument or apparatus was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

17. Confiscation or destruction of opium and things seized.

- Any opium or other thing liable to confiscation under the provisions of the Opium Act, 1878 (1 of 1878) or any other law for the time being in force relating to opium, or any apparatus for preparation of opium or for opium smoking seized in accordance with the provisions of this Act shall be confiscated or destroyed.

18. Offenses to be triable by first class or second class Magistrate only.

- No Magistrate other than a Magistrate of the first or second class shall try any offense punishable under this Act.

19. Cognizance of offenses.

- No Magistrate shall take cognizance of an offense punishable under this Act except on the complaint or report of the Collector or an Excise Officer or a Police Officer not below the rank of an sub-inspector.

20. Bar of certain suits.

- No suit shall lie in any civil Court against [the Government] [Substituted by M.P. A.O. 1938.], or any Collector, or officer of the Excise or Police Department for damages for any act in good faith done or ordered to be done in pursuance of this Act.

21. Limitation of suits and prosecutions.

- No civil Court shall try any suit against [the Government] [Substituted by M.P. A.O. 1937.] or any Collector or officer of the Excise or Police Department, in respect of anything done or alleged to have been done in pursuance of this-Act and; -except with the previous sanction of the State Government, no Magistrate shall take cognizance of any charge made against any person under this Act, unless the suit or prosecution is instituted within six months after the date of the/ act complained of.

22. Tender of pardon to accused person turning approver.

(1)Whenever two or more persons are prosecuted for an offense Under this Act the District Magistrate, a Sub-Divisional Magistrate or any magistrate of the first class 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 offense.(2)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.

23. Power to make rules.

(1)The State 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 of fines imposed under this Act.