

# The Poisons Act, 1977

JAMMU & KASHMIR

India

## The Poisons Act, 1977

### Act 34 of 1977

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The Poisons Act, 1977(Act No. 34 of 1977)[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with State Council Resolution No. 1, dated 5th April, 1925, (Notification No. 14-L/81).]An Act to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally. Whereas it is expedient to make provision for regulating the possession and sale of all poisons in certain local areas and the importation, possession and sale of white arsenic; It is hereby enacted as follows

#### 1. Short title, extent and commencement.

(1)This Act may be called the Poisons Act, 1977.(2)It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.Poisons Generally

#### 2. Power to regulate possession for sale and sale of any poison in certain cases.

(1)[The Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may, by rule, regulate within the limits of any municipality or cantonment the possession for sale and the sale, whether wholesale or by retail, of any specified poison.(2)In particular, and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for, amongst other matters,-(a)the grant of licence to possess any specified poison for sale, wholesale or by retail, and the fixing of the fee (if any) be charged for such licences;(b)the classes of persons to whom alone such licences may be granted;(c)the classes of persons to whom alone any such poison may be sold;(d)the maximum quantity of any such poison which may be sold to any one person;(e)the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;(f)the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and(g)the inspection and

examination of any such poison when possessed for sale by any such vendor.(3)Any substance specified as a poison in a rule made under this section shall be deemed to be a poison for the purposes of this Act.White Arsenic

### **3. Powers to prohibit importation into the State of white arsenic except under licence.**

- [The Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may, by notification in the Jammu and Kashmir Government Gazette, prohibit, except under and in accordance with the conditions of a licence, the importation of white arsenic into the State, and may, by rule, regulate the grant of licences and prescribe the conditions to be imposed thereby under this section.

### **4. Power to regulate possession for sale and sale of white arsenic throughout the State.**

(1)[The Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may, by rule, regulate within the whole or any part of the State the possession for sale and the sale, whether wholesale or by retail, of white arsenic.(2)In particular and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide, amongst other matters for all or any of the matters specified in section 2, sub-section (2).(3)Rules made under sub-section (i) may further provide that no person shall sell any powdered white arsenic unless the same is, before the sale thereof, mixed with soot, indigo or Prussian blue in the proportion of half an ounce of soot, indigo or Prussian blue at least to one pound of the white arsenic, and so in proportion for any greater or less quantity:Provided that, where such arsenic is stated by the purchaser to be required for some purpose for which such admixture would, according to the representation of the purchaser render it unfit, such arsenic may be sold, without such admixture, in a quantity of not less than ten pounds at any one time.

### **5. Power to regulate possession of white arsenic in certain tracts.**

(1)[The Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may further, by rule, regulate the possession of white arsenic in any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.(2)In making any rule under sub-section (1), [the Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the white arsenic in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.Other Poisons

## **6. Power to apply Act to other poisons.**

(1)[The Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may, by notification in the Jammu and Kashmir Government Gazette, apply to any specified poison other than white arsenic all or any of the provisions of this Act relating exclusively to white arsenic.(2)Any substance specified as a poison in a notification issued under sub-section (1) shall be deemed to be a poison for the purposes of this Act.Penalties and Procedure

## **7. Penalty for unlawful importation, etc.**

(1)Whoever -(a)commits a breach of any rule made under section 2 or section 4, or(b)imports into the State, without a licence, white arsenic the importation of which is for the time being restricted under section 3, or(c)breaks any condition of a licence for the importation of white arsenic granted to him under section 3, shall be punishable,-(i)on a first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and(ii)on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.(2)Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, and, in the case of any offence mentioned in clause (b) or clause (c) of sub-section (1), any animals and conveyances used in carrying it, shall be liable to confiscation.

## **8. Power to issue search warrant.**

(1)The District Magistrate and the Sub-Divisional Magistrate, respectively, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder or that any poison liable to confiscation under this Act is kept or concealed.(2)The person to whom the warrant is direct may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure relating to search warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

## **9. Rules.**

(1)In addition to any other power to make rules hereinbefore conferred, [the Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may make rules generally to carry out the purposes and objects of this Act.(2)Every power to make rules conferred by this Act Shall be subject to condition of the rules being made after previous publication.(3)All rules made by [the Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] under this Act shall be published in the Jammu and Kashmir Government Gazette and on such publication shall have effect as if enacted in this Act.Savings

## 10. Savings.

(1) Nothing in this Act or in any licence granted or rule made thereunder shall extend to or interfere with anything done in good faith in the exercise of his profession or business as such—(a) by a medical or veterinary practitioner, or (b) by a chemist or druggist duly qualified to act as such under the law for the time being in force in the State, or (c) by a chemist, druggist or compounder dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner, or (d) subject to any rules for the time being in force under section 5, by a tanner or hide-merchant. (2) Notwithstanding anything hereinbefore contained, [the Government] [In section 2, 3, 4, 5, 6, 9 and 10 the words 'the Government' substituted for the words 'His Highness' by Act X of 1996.] may, in its discretion, by general or special order, declare that all or any of the provisions of this Act shall not be deemed to apply to any article, or class of articles, of commerce specified in such order, or to any poison, or class of poisons, used for any purposes, used for purpose so specified, and may, from time to time, alter or vary any such declaration. (3) The authority on which any power to make rules under this Act is conferred may, by general or special order, exempt any person or class of persons, either generally or in respect of any poison or poisons specified in the order, from the operation of any such rules.

## 11.

Omitted.