

The Poisons Act, 1919

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Statement of Objects and Reasons.-The Poisons Act of 1904 was intentionally limited in scope so as to restrict interference with legitimate industries as possible. As the result of these limitations, however, the control afforded by the Act, over the traffic in poisons has been proved by experiment to be inadequate. In 1910 and 1914, the Government of the United Provinces suggested certain radical amendments in the Act to remedy the defect. The suggestions were referred to Local Governments and Administrations for opinion. The replies received showed a general agreement in favour of the suggestions of the Government of the United Provinces. A new Bill has accordingly been prepared which will repeal the Poisons Act, 1904. The more important features of the Bill are:- (1) The substitution of single (clause 2) for sections 3, 4 and 6 of the existing Act with the object of empowering Local Government to regulate the possession for sale and the sale, wholesale or retail of any specified poison any where within their respective territories, instead of in municipalities and cantonments only. (2) An expansion of the provisions of sections 3 and 5 of the Act so as to make them cover, not only white arsenic, but any poison specified in notifications, or issued in accordance with those sections, (Clauses 3 and 4). (3) The exclusion of clauses (b), (c) and (d) mentioned in section 10(1) of the Act with the effect of reducing the number of exempted classes to one, viz., medical veterinary practitioners. (4) The addition of clause [Clause 9(3)(b)] empowering Government to exclude individual members of the exempted clause (i.e., medical and veterinary practitioners) for the benefit of the exemption conferred by section 10(1) of the Act. The opportunity has also been taken to make some verbal alterations in the Act; and section 11, which is spent, has been omitted. Amendment Act 47 of 1958-Statement of Objects and Reasons.-The Poisons Act, 1919, which deals with the importation, possession and Sale of Poisons, does not extend to the territories comprised in the former Part B States. After the passing of the States Recognition Act, 1956, it was found that in certain States like Andhra Pradesh and Madras, the Central Poisons Act was in force in the greater part of the State, but local Acts like the Hyderabad Poisons Act and the

Travancore-Cochin Poisons Act, continued to be in force in other parts which were included as a result of the reorganisation. In consultation with the State Governments it is now proposed, in the interests of uniformity, to extend the Central Poisons Act to the territories comprised in the former Part B States and to repeal any corresponding laws in force there. The Bill seeks to achieve this object. An Act to consolidate and amend the law regulating the importation, possession and sale of poisons [- -] [[The words "throughout British India" omitted by A.O.1948.]]. Whereas it is expedient to consolidate and amend the law regulating the importation, possession and sale of poisons [- -] [The words "throughout British India" omitted by A.O.1948.]; It is hereby enacted as follows:-

This Act has been extended to the new Provinces and merged States by the Merged States (Laws) Act 59 of 1949 and to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act 30 of 1950. Manipur and Tripura are full-fledged States now, see Act 81 of 1971 but Vindhya Pradesh is a part of Madhya Pradesh State, see Act 37 of 1956.

1. Short title and extent

(1) This Act may be called The Poisons Act, 1919. (2) [It extends to the whole of India: Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the importation into India of any specified poison.] [Substituted by Act 47 of 1958, Section 2, for sub-Section (2) (w.e.f. 17.12.1958).]

2. Power of the State Government to regulate possession for sale and sale of any poison

(1) [* * *] [[The words "Subject to the control of the Governor-General-in-Council" omitted by A.O.1937.]] The [State Government] [Substituted by A.O.1950, for "Provincial Government".] may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for (a) the grant of licences to possess any specified poison for sale, wholesale or retail, and fixing of the fee (if any) to 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; (g) the inspection and examination of any such poison when possessed for sale by any such vendor.

3. Power to prohibit importation into the States of any poison except under licence

.The [Central Government] [Substituted by A.O.1937, For "Governor-General-in-Council" and [Gazette of India],] may, by notification in the [Official Gazette] [Substituted by A.O.1937, for "Governor-General-In-Council" and [Gazette of India], respectively.], prohibit except under and in

accordance with the conditions of a licence, the importation into [India] [[Substituted by Act 47 of 1958, Section 3, for "the States" (w.e.f. 17.12.1958).]] [across any customs frontier defined by the Central Government] [Inserted by A.O.1937.] of any specified poison, and may by rule regulate the grant of licences.

4. Power to regulate possession of any poison in certain areas

(1) The [State Government] [Substituted by A.O. 1950, for "Provincial Government".] [- - -] [The words "subject to the control of the Governor-General-in-Council" omitted by A.O.1937.] may by rule regulate the possession of any specified poison (2) In making any rule under sub-section (1), the [State Government] [Substituted by A.O.1950, for "Provincial Government"] 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 poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

5. Presumption as to specified poisons

.Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

6. Penalty for unlawful importation, etc

(1) Whoever (a) commits a breach of any rule made under section 2, or (b) imports [- - -] [The words "into British India" omitted by A.O. 1937.] without a licence [into [India] [Inserted by A.O.1937.] across a customs frontier defined by the Central Government] any poison 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 any poison 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, shall be liable to confiscation.

7. Power to issue search-warrant

(1) The District Magistrate, the Sub-Divisional Magistrate and, in a presidency-town, the Commissioner of Police, may issue 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 directed may enter and search the place in accordance therewith, and the provisions of the [Code of Criminal Procedure, 1898 (5 of 1898)] [Now see the Code of Criminal

Procedure, 1973 (2 of 1974).], relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

[Gujarat].In its application to the State of Gujarat, in Section 7, in sub-S. (1), after the words the Commissioner of Police, insert and in area within the jurisdiction of the Commissioner of Police, Ahmedabad.Gujarat Government Gazette, dated 9-3-1961.

8. [[See the Delhi Poisons Rules, 1926; the Himachal Pradesh Poisons Rules, 1960; the Poisons (Madhya Pradesh) Rules, 1960; the Mysore Poisons Rules, 1966; the Pondicherry Poisons Rules, 1971; the Punjab Poisons Possession and Sales Rules, 1966; the Manipur Poisons Rules, 1959 and the Maharashtra Poisons Rules, 1972.] Rules

(1)In addition to any other power to make rules hereinbefore conferred [* * *] [The words "and subject to the control of the Governor-General-in-Council" omitted by A.O.1937.] the [State Government] [Substituted by A.O. 1950, for "Provincial Government".] may make rules generally to carry out the purposes and objects of this Act [except section 3] [Inserted by A.O.1937.](2)Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.(3)All rules made by the [Central Government] [[Substituted by A.O.1937, for[Governor-General-in-Council] and [Gazette of India] respectively.]] or by the [State Government] [Substituted by A.O.1950, for "Provincial Government".] under this Act shall be publishedin the [Official Gazette] [Substituted by A.O.1937, for "Governor-General-in-Council" and [Gazette of India] respectively.] and on such publicationshall have effect as if enacted in this Act.(4)[Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.(5)Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.] [Inserted by Act 4 of 1986, Section 2 and Sch. (w.e.f. 15.5.1986).]

9. Savings

(1)Nothing in this Act or in any licence granted on rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.(2)Notwithstanding anything hereinbefore contained, the [State Government] [Substituted by A.O.1950, for "Provincial Government".] may [- - -] [The words "in its discretion" omitted by A.O.1937.] by general or special order declare that all or any of the provisions of this Act [except section 3] [Inserted by A.O. 1937.] shall be deemed not 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 purpose so specified.(3)The authority on which any power to make rules under this Act is conferred

may, by general or special order, either wholly or partially (a) exempt from the operation of any such rules, or (b) exclude from the scope of the exemption provided by sub-section (1), any person or class of persons either generally or in respect of any poisons specified in the order.

10. Repeal of Act 1 of 1904

. [Repealed by the Repealing Act, 1927 (12 of 1927).]