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ASSAM OPIUM (AMENDMENT) ACT, 1933*
(Assam Act I of 1933)

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*Published in the Assam Gazette, dated 7-6-1933.

An Act to amend the opium Act, 1878

Preamble.

Whereas it is expedient to amend the opium Act, 1878 (Act I of 1878) in its application to Assam for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title.

This Act may be called the Assam Opium (Amendment) Act, 1933.

COMMENTS

Section 1.

The Opium Act of 1857 (Act XIII of 1857) was enacted to consolidate and amend the law relating to cultivation of the poppy and the manufacturer of opium. The total prohibition of cultivation of poppy by virtue of this Central Act was held to be not violating of Art. 19 (1) (g) of the Constitution. [AIR 1967 All 341]. The Opium Act I of 1878 is an Act to amend the law relating to opium.

This Act is also in force in Kohima and Mokokchung *vide* Act XXXVIII of 1954.

2. Amendment of S. 9 of Act I of 1878.

In S. 9 of the Opium Act, 1878 (hereinafter referred to as the principal Act)-

- (i) for the words “on conviction before the Magistrate” and “the convicting Magistrate ”the words “on conviction” and “the convicting Court” respectively, shall be substituted;
- (ii) for the words “ for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both” there shall be substituted the words “ which may extend to two years, or with fine or with both” ; and
- (iii) for the words “six months” the words “one year” shall be substituted.

3. Insertion of new Ss. 9-A, 9-B, 9-C, 9-D, 9-E and 9-F.

After S. 9 of the principal Act, the following new sections shall be inserted, namely:

“9-A. Enhanced punishment after previous conviction.
Whoever having been convicted of an offence punishable under S.9 is again guilty of an offence

under that section shall be subject, for every such subsequent offence, to imprisonment which may extend to four years or to fine.

- 9-B. *Security for abstaining from commission of certain offences.* (1) Whenever any person is convicted of an offence punishable under S.9 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 such offence, the Court may, at the time of passing sentence on such person, 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 and the provisions of the Code of Criminal Procedure (Act V of 1898) shall, in so far as they are applicable, apply to all matters connected with such bond and the non-execution thereof as if it were a bond to keep the peace ordered to be executed under S.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 High Court when exercising its powers of revision.

9-C. *Punishment for allowing premises to be used for the commission of an offence.* Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle or place, knowingly permits it to be used for the commission by any other person of an offence punishable under S. 9 shall be liable to the punishment provided for in that section.

9-D *Import, export, transport, manufacture, sale or possession by one person on account of another.* (1) When any opium has been imported, exported, transported, sold or is possessed by any other person, and such other person knows or has reason to believe that such import, export transport, or sale was or that such possession is on his account, the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported, or sold by, or to be in possession of, such other person.

(2) Nothing in sub-S. (1) shall absolve any person who imports, exports, transports, sells, or has possession of opium on account of another person from liability to any punishment under this Act for the unlawful; import, transport, sale or possession of opium.

9-E. Abetments. Whoever attempts to commit an offence and in such attempts does any act towards the commission of the offence punishable under S. 9. or S 9-C. shall be liable to punishment provided for the offence.

9-F. Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in S. 116 of the Indian Penal Code (Act XLV of 1864) de punished with the punishment provided for the offence.

4. Amendment of S.14 of the Act I of 1878.

In S.14 of the principal Act, -

- (i) for the words “between sunrise and sunset” there shall be substituted the words “whether by day or by night”, and
- (ii) in Cl. (c) after the word “opium” where it occurs for the second time the following words shall be added, namely:

“and any document or other article which has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Eastern Bengal and Assam Excise Act, 1910 (1 of

1910) or under the Dangerous Drugs Act, 1930 (Act II of 1930).

5. Amendment of S. 15 of Act I of 1878.

In S 15 of the principal Act, -

- (i) after the word “opium” at the end of Cl. (a) there shall be added the following words, namely:

“any document or other article which has reason to believe may furnish evidence of the commission of an offence punishable under this Act or under the Eastern Bengal and Assam Excise Act, 1910 (I of 1910) or under the Dangerous Drugs Act, 1930 (Act II of 1930), and

- (ii) in Cl. (b) for the words “if such person has opium in his possession,” the words “if the search confirms such belief” shall be substituted.

6. Insertion of new S. 20-A.

After S.20 of the principal Act the following new section shall be inserted, namely:

“20-A. *Power to invest Excise Officer with powers of an officer in-charge of a Police station.* (1) the Provincial Government may invest any officer of the Excise

Department, not below the rank of a Sub-Inspector or any class of such officers, with the powers of an officer-in-charge of a police station for the investigation of offences under this Act.

(2) Any confession made to or whilst in the custody of any officer invested under S. (1) with the powers of an officer-in-charge of a police station shall be deemed to be a confession made to or whilst in the custody of a police officer. “

7. At the end of the principal Act the following schedule shall be inserted namely:

“SCHEDULE”

**“ Bond to abstain from the commission of offences under the
Assam opium (Amendment) Act, 1933**

[See Section 9-B]

Whereas I,(name), inhabitant of (place)
have been called upon to enter onto a bond to abstain from
commission of an offence under S. 9 of the Indian Opium
Act, 1878, for the term of

I hereby bind myself not to commit any such offence during
the said term and, in case of making any default therein, I
hereby bind myself to forfeit to Government, the sum of
rupees

Dated thisday of ...19 (Signature)

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

We do hereby declare ourselves sureties for the above
named... .. that he will abstain from the commission of
an offence under S. 9 of the Indian Opium Act, 1878, during
the said term, and in case of his making default therein, we
bind ourselves, jointly and severally, to forfeit to Government
the sum of rupees

Dated thisday of ...19 (Signature)”
