

CHAPTER 154.

DANGEROUS DRUGS.

An Ordinance to give effect to measures decided upon in the International Opium Convention signed at Geneva, on the 19th day of February, 1925, and to regulate the importation, exportation, manufacture, sale and use of opium and other dangerous drugs, in the Colony and the Protectorate.

10 of 1926.
33 of 1928.
22 of 1932.

[10TH APRIL, 1926.]

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the Dangerous Drugs Ordinance, and shall apply to the Colony and the Protectorate.

Short title.

2. In this Ordinance unless the context otherwise requires—

Interpretation.

“raw opium” means the spontaneously coagulated juice obtained from the capsules of the *papaver somniferum* L., which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine;

“prepared opium” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

“medicinal opium” means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopœia, whether it is in the form of powder or is granulated or is in any other form and whether it is or is not mixed with neutral materials;

“morphine” means the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$;

“diacetylmorphine” means diacetylmorphine, (diamorphine, heroin) having the formula $C_{21}H_{23}NO_5$;

“coca leaf” means the leaf of the *erythroxylon coca lamarck* and the *erythroxylon novo-granatense* (Morris) *hieronymus* and their varieties, belonging to the family of *erythroxylaceæ* and the leaf of other species of this genus from which it may be found possible to extract cocaine either directly or by chemical transformation;

“crude cocaine” means any extract of the coca leaf which can be used directly or indirectly for the manufacture of cocaine;

“cocaine” means methyl-benzoyl lævo-ecgonine $[\alpha]_D^{20} = -16^\circ 4$ in 20 per cent. solution of chloroform, of which the formula is $C_{17}H_{21}NO_4$;

“ecgonine” means lævo-ecgonine $[\alpha]_D^{20} = -45^\circ 6$ (in 5 per cent. solution of water), of which the formula is $C_9H_{15}NO_3 \cdot H_2O$ and all the derivatives of lævo-ecgonine which might serve industrially for its recovery;

“Indian hemp” means the dried flowering or fruiting tops of the pistillate plant known as *cannabis sativa* from which the resin has not been extracted, by whatever name such tops are called;

“Colony” includes the Protectorate;

“rules” mean rules made under this Ordinance by the Governor in Council;

“prescribed” means prescribed by rules;

“approved ports” means ports approved by rules for the importation or exportation, as the case may be, of raw opium and coca leaves.

PART II.—RAW OPIUM AND COCA LEAVES.

Restriction on
importation
of raw opium.

3. It shall not be lawful for any person to import or bring into the Colony any raw opium except under licence and into approved ports.

Restriction on
exportation
of raw opium.

4. (1) It shall not be lawful for any person to export from the Colony any raw opium except under licence and from approved ports.

(2) If at any time the importation of raw opium into a foreign country is prohibited or restricted by the laws of that country, there shall, while that prohibition or restriction is in force, be attached to every licence which is issued by the Governor under this Ordinance authorising the export of raw opium from the Colony, such conditions as appear to him necessary for preventing or restricting, as the case may be, the exportation of raw opium from the Colony to that country during such time as the importation of raw opium into that country is so prohibited or restricted, and any such licences issued before the prohibition or restriction came into force shall, if the Governor by Order so directs, be deemed to be subject to the like conditions.

5. The Governor in Council may make rules for controlling or restricting the production, possession, sale and distribution of raw opium, and in particular, but without prejudice to the generality of the foregoing power, for prohibiting the production, possession, sale or distribution of raw opium except by persons licensed or otherwise authorised in that behalf.

Power to regulate the production of and dealing in raw opium.

6. The provisions of this Part of this Ordinance shall apply to coca leaves in the same manner as they apply to raw opium.

Application of Part II to coca leaves.

PART III.—PREPARED OPIUM.

7. It shall not be lawful for any person to import or bring into, or to export from, the Colony any prepared opium.

Prohibition of export or import of prepared opium.

8. If any person—

Penalty for manufacturing, selling, using, etc., prepared opium.

(a) manufactures, sells or otherwise deals in prepared opium; or

(b) has in his possession any prepared opium; or

(c) being the occupier of any premises permits those premises to be used for the purpose of the preparation of opium for smoking or the sale or smoking of prepared opium; or

(d) is concerned in the management of any premises used for any such purpose as aforesaid; or

(e) has in his possession any pipes or other utensils for use in connection with the smoking of opium, or any utensils used in connection with the preparation of opium for smoking; or

(f) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking;

he shall be guilty of an offence against this Ordinance.

PART IV.—INDIAN HEMP.

9. It shall not be lawful for any person to import or bring into, or to export from, the Colony any resin obtained from the plant *cannabis sativa*.

Prohibition of importation and exportation of the resin from the plant *cannabis sativa*.

10. If any person—

Penalty for selling, etc., cannabis sativa and the resin therefrom.

(a) produces, sells or otherwise deals in resin from the plant *cannabis sativa*; or

(b) has in his possession any resin from the plant *cannabis sativa*; or

- (c) cultivates the plant *cannabis sativa*; or
 - (d) sells or otherwise deals in the whole or any portion of the plant *cannabis sativa* (excluding its medical preparations); or
 - (e) has in his possession the whole or any portion of the plant *cannabis sativa* (excluding its medical preparations);
- he shall be guilty of an offence against this Ordinance.

PART V.—COCAINE, MORPHINE, ETC.

Restriction on
import and
export of
cocaine, etc.

11. It shall not be lawful to import or bring into, or to export from, the Colony any drug to which this part of this Ordinance applies except under licence.

Control of
manufacture
and sale of
cocaine, etc.

12. (1) For the purpose of preventing the improper use of the drugs to which this part of this Ordinance applies, the Governor in Council may make rules for controlling the manufacture, sale, possession and distribution of those drugs, and in particular, but without prejudice to the generality of the foregoing power, for—

(a) prohibiting the manufacture of any drug to which this Part of this Ordinance applies except on premises licensed for the purpose and subject to any conditions specified in the licence; and

(b) prohibiting the manufacture, sale or distribution of any such drug except by persons licensed or otherwise authorised under the rules and subject to any conditions specified in the licence or authority; and

(c) regulating the issue by medical practitioners of prescriptions containing any such drug and the dispensing of any such prescriptions; and

(d) requiring persons engaged in the manufacture, sale or distribution of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed.

(2) The rules under this section shall provide for authorising any person who lawfully keeps open shop for the retailing of poisons in accordance with the provisions of the Medical Practitioners, Dentists and Druggists Ordinance,

(a) to manufacture at the shop in the ordinary course of his retail business any preparation, admixture, or extract of any drug to which this part of this Ordinance applies; or

(b) to carry on at the shop the business of retailing, dispensing, or compounding any such drug;

subject to the power of the Governor to withdraw the authorisation in the case of a person who has been convicted of an offence against this Ordinance or of an offence under the Customs Ordinance, as applied by this Ordinance, and who cannot, in the opinion of the Governor, properly be allowed to carry on the business of manufacturing or selling or distributing, as the case may be, any such drug. Cap. 271.

(3) Nothing in any rules made under this section shall be taken to authorise the sale, or the keeping of an open shop for the retailing, dispensing, or compounding of, poisons by any person who is not qualified in that behalf, under, or otherwise than in accordance with, the provisions of the Medical Practitioners, Dentists and Druggists Ordinance, or to be in derogation of the provisions of the said Ordinance for prohibiting, restricting, or regulating the sale of poisons. Cap. 151.

13. (1) The drugs to which this part of this Ordinance applies are— Drugs to which Part V applies.

(a) medicinal opium;

(b) any extract or tincture of Indian hemp;

(c) morphine and its salts, and diacetylmorphine (commonly known as diamorphine or heroin) and the other esters of morphine and their respective salts;

(d) cocaine (including synthetic cocaine) and ecgonine and their respective salts, and the esters of ecgonine and their respective salts;

(e) any solution or dilution of morphine or cocaine or their salts in an inert substance whether liquid or solid, containing any proportion of morphine or cocaine, and any preparation, admixture, extract or other substance (not being such a solution or dilution as aforesaid) containing not less than one-fifth per cent. of morphine or one-tenth per cent. of cocaine or of ecgonine;

(f) any preparation, admixture, extract or other substance containing any proportion of diacetylmorphine;

(g) dihydrohydroxycodine, dihydrocodeinone, dihydromorphinone, acetyldihydrocodeinone, dihydromorphine, their esters and the salts of any of these substances and of their esters, morphine-N-oxide (commonly known as genomorphine), the morphine-N-oxide derivatives, and any other pentavalent nitrogen morphine derivatives;

(h) thebaine and its salts, and (with the exception of methylmorphine, commonly known as codeine, and

ethylmorphine, commonly known as dionin, and their respective salts) benzylmorphine and the other ethers of morphine and their respective salts;

(i) any preparation, admixture, extract or other substance containing any proportion of any of the substances mentioned in paragraph (g) or in paragraph (h) of this sub-section.

For the purpose of the foregoing provision the expression "ecgonine" means lævo-ecgonine and includes any derivatives of ecgonine from which it may be recovered industrially, and the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

Power to
apply to
other drugs.

(2) If it appears to the Governor in Council that any new derivative of morphine or cocaine or of any salts of morphine or cocaine or any other alkaloid of opium or any other drug of whatever kind is or is likely to be productive, if improperly used, or is capable of being converted into a substance which is, or is likely to be productive, if improperly used, of ill-effects substantially of the same character or nature as or analogous to those produced by morphine or cocaine, the Governor in Council may by Order declare that this part of this Ordinance shall apply to that new derivative or alkaloid or other drug in the same manner as it applies to the drugs mentioned in sub-section (1) of this section, and make any verbal alterations in the list of drugs specified in sub-section (1) incidental to the declaration contained in such order.

Power to
remove
application
from drugs.

(3) If the Governor in Council thinks fit, by Order, to declare that a finding with respect to any preparation containing any of the drugs to which this Part applies has in pursuance of Article 8 of the International Opium Convention signed at Geneva on the nineteenth day of February, nineteen hundred and twenty-five been communicated by the Council of the League of Nations to the parties to the said Convention, the provisions of this part shall as from such date as may be specified in the Order cease to apply to the preparation specified therein.

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Prohibition of
trade, etc., in
new drugs
and power to
apply Part V
to certain
drugs.

14. (1) It shall not be lawful for any person in the Colony to trade in or manufacture for the purpose of trade any products obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was on the thirteenth day of July, nineteen hundred and thirty-one, being used for medical or scientific purposes:

* Now in the purview of the United Nations.

Provided that if the Governor in Council is at any time satisfied as respects any such product that it is of medical or scientific value, the Governor in Council may by Order direct that this sub-section shall cease to apply to that product.

If any person acts in contravention of this sub-section, he shall be guilty of an offence against this Ordinance.

(2) If it is made to appear to the Governor in Council that a decision with respect to any such product as is mentioned in sub-section (1) of this section has in pursuance of Article II of the International Convention signed at Geneva on the thirteenth day of July, nineteen hundred and thirty-one been communicated by the Secretary-General of the League of Nations to the parties to the said Convention, the Governor in Council may by Order, as the case requires, either declare that the provisions of this Part of this Ordinance shall apply to the product in the same manner as they apply to the drugs mentioned in section 13 (1) of this Ordinance or apply this Part of this Ordinance to that product with such modifications as may be specified in the Order.

(3) The Governor in Council may by Order apply this Part of this Ordinance, with such modifications as may be specified in the Order to any of the following drugs, that is to say, methylmorphine (commonly known as codeine), ethylmorphine (commonly known as dionin) and their respective salts.

PART VI.—DANGEROUS DRUGS IN TRANSIT.

15. (1) Where any drugs or articles to which this Ordinance applies are consigned to some place elsewhere than within the Colony and are brought within the territorial waters of the Colony by a ship by which on the same voyage they are intended to leave such territorial waters, none of such drugs or articles shall be—

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drugs in
transit.

- (a) removed from the ship, or
- (b) removed from such territorial waters,

except under and in accordance with an appropriate written authority issued for that purpose by the Comptroller of Customs or by some Customs Officer empowered by the Comptroller of Customs to give such authority.

Any person who contravenes any of the provisions of this sub-section shall be guilty of an offence against this Ordinance.

(2) Subject to any rules which may be made under this section, the granting of any such authority and the revocation of

* Now by the Secretary-General of the United Nations.

the same shall lie in the absolute discretion of the Comptroller of Customs or such Customs Officer, and the Comptroller of Customs or such Customs Officer may grant such authority subject to any conditions he may think fit to impose.

(3) The Governor in Council may make rules—

(a) providing for notice being given by masters of ships as to whether they have on board any drugs or articles to which this Ordinance applies, and prescribing the particulars to be given with such notice;

(b) prescribing the cases in which, and the conditions on which, the authority mentioned in the first sub-section of this section may be given;

(c) providing for notice being given of the removal from the territorial waters of the Colony of any such drugs or articles by the ship bringing the same into such waters; and

(d) for purposes incidental to any of the matters referred to in this sub-section.

PART VII.—GENERAL.

Licences.

16. Licences or authorities for the purposes of this Ordinance may be issued or granted by the Governor, and may be issued or granted on such terms and subject to such conditions (including in the case of a licence the payment of a fee) as the Governor in Council may by order prescribe.

Application
of section 62
of Cap. 271.

17. (1) Articles prohibited to be imported by virtue of this Ordinance shall be deemed to be included among the goods enumerated and described in the table of prohibitions inwards contained in section 62 of the Customs Ordinance, and the provisions of this Ordinance relating to the prohibition of the export of articles shall have effect as though they were included in that Ordinance, and the provisions of that Ordinance and of any Ordinance amending or extending that Ordinance shall apply accordingly.

(2) If any goods prohibited to be exported by virtue of this Ordinance are exported from the Colony in contravention thereof, or brought to a quay or other place to be shipped for the purpose of being so exported or of being waterborne to be so exported, the exporter or his agent shall be liable to the same penalty as that to which a person is liable under section 62 of the Customs Ordinance for illegally importing prohibited goods.

18. (1) Any constable or other person authorised in that behalf by any general or special order of the Commissioner of Police or of a Provincial Commissioner shall, for the purposes of the execution of this Ordinance, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any drugs to which this Ordinance applies and to demand the production of and to inspect any books or documents relating to dealings in any such drugs, and to inspect any stocks of any such drugs.

Powers of inspection and seizure.

(2) If a magistrate or a district commissioner is satisfied by information on oath that there is reasonable ground for suspecting that any drugs to which this Ordinance applies are, in contravention of the provisions of this Ordinance or any rules made thereunder, in the possession or under the control of any person in any premises, or that any document directly or indirectly relating to or connected with any transaction or dealing which would, if carried out, be an offence against this Ordinance, or in the case of a transaction or dealing carried out or intended to be carried out in any place outside the Colony, an offence against the provisions of any corresponding law in force in that place is in the possession or under the control of any person in any premises, he may grant a search warrant authorising any constable named in the warrant, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein, and if there is reasonable ground for suspecting that an offence against this Ordinance has been committed in relation to any such drugs which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid, to seize and detain those drugs or that document, as the case may be.

Search warrant.

(3) If any person wilfully delays or obstructs any person in the exercise of his powers under this section or fails to produce or conceals or attempts to conceal any such books, stocks, drugs or documents as aforesaid, he shall be guilty of an offence against this Ordinance.

Penalty for obstruction.

19. (1) Any person—

(a) who acts in contravention of, or fails to comply with, any rule made under this Ordinance; or

(b) who acts in contravention of, or fails to comply with, the conditions of any licence issued or authority granted under or in pursuance of this Ordinance; or

Offences and penalties.

(c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or any document containing the same; or

(d) who in the Colony aids, abets, counsels or procures the commission in any place outside the Colony of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act which if committed in the Colony would constitute an offence against this Ordinance;

shall be guilty of an offence against this Ordinance.

(2) Every person guilty of an offence against this Ordinance shall, in respect of each offence, be liable—

(a) on conviction in the Supreme Court, to a fine not exceeding one thousand pounds, or to imprisonment for a period not exceeding ten years, with or without hard labour, or to both such fine and imprisonment; or

(b) on summary conviction, to a fine not exceeding two hundred and fifty pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment;

and shall, in every case on conviction for the offence, forfeit to Her Majesty all articles in respect of which the offence was committed, and the court before which the offender was convicted may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

(3) Subject as hereinafter provided, no person shall, on conviction for any offence of contravening or failing to comply with any rule under this Ordinance relating to the keeping of books or the issuing or dispensing of prescriptions containing drugs to which this Ordinance applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding fifty pounds, if the Court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of, or in connection with, the commission or intended commission of any other offence against this Ordinance.

(4) If any person attempts to commit an offence against this Ordinance, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on summary conviction to the same punishment and

forfeiture as if he had committed an offence under this Ordinance.

(5) Where a person convicted of an offence under this Ordinance is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(6) Any proceedings before a magistrate for an offence against this Ordinance, or for attempting or soliciting or inciting another person to commit such an offence may, notwithstanding any Ordinance prescribing the time within which such proceedings may be brought, be brought either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to his knowledge, whichever is the longer, and for the purposes of this sub-section, a certificate purporting to be signed by the Attorney General as to the date on which such evidence as aforesaid comes to his knowledge shall be conclusive evidence thereof.

20. In the last two preceding sections the expression "corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country outside the Colony to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs in accordance with the provisions of the International Opium Convention signed at the Hague on the twenty-third day of January, nineteen hundred and twelve or of the International Opium Convention signed at Geneva on the nineteenth day of February, nineteen hundred and twenty-five or of the International Convention signed at Geneva on the thirteenth day of July, nineteen hundred and thirty-one, and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive.

Definition of the expression "corresponding law."

21. Any constable may arrest without warrant any person who has committed, or attempted to commit, or is reasonably suspected by the constable of having committed or attempted to commit, an offence against this Ordinance, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to and cannot be ascertained by him,

Power of arrest.

Meaning of importation and exportation under licence.

22. For the purposes of this Ordinance, any article shall be deemed to be imported under licence or exported under licence if the importer or exporter, as the case may be, is the holder of a licence issued under this Ordinance authorising the importation or exportation, as the case may be, of the article and complies with the conditions, if any, of the licence, but not otherwise.

Burden of proof.

23. In any proceedings against any person for an offence against this Ordinance, it shall not be necessary to negative by evidence any licence, authority or other matter or exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.
