

THE JAMMU AND KASHMIR OPIUM SMOKING ACT,2011 (1954 A.D.)
(ACT No. XXXII of 2011)

[24th December,1954]

An Act to provide for the control of the practice of smoking prepared Opium and to secure the ultimate prohibition of smoking of prepared opium in the Jammu and Kashmir State.

Where as it is expedient to provide for the control of the practice of smoking prepared opium and to secure the ultimate prohibition of smoking of prepared opium in the Jammu and Kashmir state.

It is hereby enacted as follows :-

1. Short Title and Commencement

- (1) This Act may be called as the Jammu and Kashmir Opium Smoking Act, 2011.
- (2) It extends to the whole of the Jammu and Kashmir state.
- (3) It shall come into force at once.

2. Definition

In this Act, unless the context otherwise requires :-

- (a) “Opium means :-
 - (i) the capsule of the Poppy;
 - (ii) The spontaneously coagulated juice of such capsule which has not been submitted to any manipulated other than those necessary for packing and transport; and
 - (iii) Any mixture, with or without natural materials of any of the above forms of the opium , but does not include any preparation containing not more than 0.2 percent of morphine, or manufactured drug which shall include all coxo derivatives, medicinal hemp and opium derivatives; and other narcotic substance which the Government may by notification in the Government Gazette make in pursuance of any international convention declared to be a manufactured drug.
- (b) “place” include a building ,house ,shop ,pool ,chappar ,enclosure ,tent ,vessel ,raft and vehicle and any part thereof;
- (c) “prepared Opium” means any product or admixture of opium obtained by any operation or series of operations designed to transform opium into an extract suitable for smoking and includes chandu ,madak and the dross or other residue remaining after opium is smoked;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “register” means the register of smokers of prepared opium maintained by or under the authority of the state Government before the commencement of this Act as a register of smokers of prepared opium;

- (f) “Registered Smoker” means a person whose name is entered in the register at any time before the commencement of this Act, as a smoker of prepared opium.

3. Prohibition of smoking of prepared opium by persons other than registered smokers

No person other than a registered smoker shall, after the commencement of this Act, smoke prepared opium.

4. No fresh Entry to be made in the register

- (1) No fresh names as smokers of prepared opium shall be entered in the register after the commencement of this Act.
- (2) Subject to the provisions of sub-section(1), the prescribed authority may, at any time, of its own motion or on application by any interested person, omit the name of any person from the register or correct in the prescribed manner any error defect in any entry in the register.
- (3) The register shall be deemed to be a public document within the meaning of the Jammu and Kashmir Evidence Act,1977.

5. Right of registered Smoker to manufacture Opium

- (1) A registered smoker shall, subject to such condition as may be prescribed, be entitled to manufacture prepared to opium not exceeding half a tola and to keep it in his possession for personal use only.
- (2) Any registered smoker, who has, in his possession, prepared opium in contravention of the provisions of sub-section(1) shall be punishable with imprisonments which may extend to three months, or with fine which may extend to two hundred rupees ,r with both.

6. Penalty for unregistered smokers

- (1) Any person, other than a registered smoker ,who –
- (a) manufactures prepared opium;
- (b) has in his possession any prepared opium;
- (c) has in his possession any pipes or any other utensils or apparatus used in connection with the manufacturer or smoking of prepared opium;
- shall be punishable with imprisonment which may extend to one year , or with fine which may extend to one thousand rupees , or with both.
- (2) Any person other than a registered smoker who smokes or otherwise uses prepared opium shall be punishable :-
- (a) for a first offence with the imprisonment which may extend to two months, or with fine, or with both; and

- (b) for any second or subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7. Provisions for bail and Security

When any person arrested under this Act is prepared to furnish bail, he shall be released on bail or in the discretion of the officer, making the arrest , on his own bond.

8. Jurisdiction to try offences

No magistrate other than a Judicial Magistrate of the first class or of the second class , specially empowered in this behalf, shall try any offence punishable under this Act.

9. Indemnity

No suit, prosecution or other legal proceedings whatever shall lie against any person in respect of anything which is in the good faith done to be intended under this Act.

10. Power to make Rules

- (1) The Government may make rules for carrying out the purpose of the Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –
 - (a) the circumstances in which an entry in the register may be omitted;
 - (b) the authority by whom and manner in which any error or defect in any entry in the register may be corrected or any entry may be omitted;
 - (c) the conditions and restrictions subject to which a registered smoker may manufacture, possess or smoke prepared opium;
 - (d) the payment of, reward is out of fines imposed under this Act.

11. Repeal

The Jammu and Kashmir Opium Smoking Act,2011 is hereby repealed.