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THE WEST PAKISTAN PROHIBITION OF OPIUM SMOKING ORDINANCE, 1960

(II of 1960)

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SCHEDULE

TEXT

**'THE WEST PAKISTAN PROHIBITION OF OPIUM SMOKING ORDINANCE,
1960**

(II of 1960)

[20th January, 1960]

**An
Ordinance**

*to amend and consolidate the law relating to the prohibition of opium smoking in the
Province of West Pakistan.*

Preamble.— Whereas it is expedient to amend and consolidate the law relating to the prohibition of opium smoking in the Province of West Pakistan;

Now, therefore, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:—

1. Short title and extent.— (1) This Ordinance may be called the West Pakistan Prohibition of Opium Smoking Ordinance, 1960.

²[(2) It extends to the whole of ³[Pakistan].]

2. Definitions.— In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) “Collector” means any officer appointed by Government to discharge throughout any specified local area the functions of a Collector under this Ordinance;
- (b) “excise officer” means an officer of the Excise Department not below the rank of a Sub-Inspector;
- (c) “Government” means the ⁴[Provincial Government];
- (d) “opium” means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is

¹This Ordinance was promulgated by the Governor of West Pakistan on 31st July, 1959; published in the West Pakistan Gazette (Extraordinary), dated 20th July, 1960, pages 83-88; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

²Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (VII of 1964); and published in the West Pakistan Gazette (Extraordinary) dated 25.5.1964, pages 1679-1688, see s.2 and Schedule, at s.No.32.

³Substituted for “the Province of West Pakistan, except the Tribal Areas.” by the Federal Adaptation of Laws Order, 1975 (P.O. 4 of 1975); and published in the Gazette of Pakistan (Extraordinary), dated 1.8.1975, pages 435-467, see Article 2(1) and Schedule.

⁴Substituted *ibid.*, for “Government of West Pakistan.”

smoked, and includes *Chandu*, *Madhak* and every other preparation or admixture of opium which may be used for smoking; and

- (e) "place" includes a building, house, shop, booth, *chhaper*, tent, vessel, raft and vehicle or any part thereof.

3. Prohibition of opium smoking.— No person shall manufacture, possess or smoke opium, or possess any implement or apparatus used, or capable of being used, exclusively for the manufacture of opium, or any pipe or utensil for smoking opium.

4. Offences and punishments.— Whoever contravenes the provisions of section 3 of this Ordinance, shall be punished with simple or rigorous imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

5. Penalty when owner fails to give notice of use of place for opium.— Whoever being an occupier or owner of, or having any concern in, the management of any place, permits such place to be used, or knowing or having reason to believe that such place is being or is about to be used for the purposes of opium smoking or manufacture of opium in contravention of the provisions of this Ordinance, fails either himself or through his agent or manager to give the earliest possible notice of such knowledge or belief to the Collector or to an excise officer or to the officer incharge of the nearest police-station, shall be punished with fine which may extend to five hundred rupees.

6. Penalty for keeping or using a place used for opium smoking.— Whoever keeps or uses any place or permits any place to be kept for the purposes of opium smoking or manufacture or possession of opium or has in his care or management, or in any way assists in conducting the business or, any place used or kept for the aforesaid purposes, shall be punished with simple or rigorous imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7. Penalty for offences not otherwise provided for.— Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Ordinance and not otherwise provided for herein shall be punished for every such act or omission with a fine which may extend to two hundred rupees.

8. Presumption raised by presence of opium smoking appliances.— Whenever any person is found in possession of any pipes or utensils ordinarily used for opium smoking or of any apparatus used in the manufacture of opium, it shall be presumed, unless the contrary is proved, that he has manufactured or smoked opium.

9. Search warrants and powers to search.— If a Collector, a District Magistrate, a Sub-Divisional Magistrate or a magistrate of the first class, upon information received and after such inquiry, if any, as he considers necessary, has reason to believe that any place is being or is likely to be used for the commission of an offence punishable under section 4,5 or 6, he may issue a warrant to an excise officer authorising him—

- (a) to enter and search such place by day or night, accompanied by any person whose assistance such officer may consider necessary for the discovery of any opium or any appliance for the preparation of opium or for opium smoking in such place;
- (b) to arrest and search all or any such persons as may be found in such place and reasonably believed by the excise officer to be guilty of an offence punishable under this Ordinance, whether they are actually engaged in opium smoking or not; and
- (c) to seize all appliances for opium smoking or for the manufacture of opium which may be found in such place.

10. Powers of excise officers to search without warrant.— (1) Whenever an excise officer has reason to believe that an offence punishable under section 4,5 or 6 has been, is being or is about to be committed in any place and that a search warrant under section 9 cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, at any time, after recording his reasons, take such action as he could have taken if a warrant in respect of the said offence had been issued to him under section 9.

(2) The excise officer taking any action under sub-section (1) shall, as soon as possible, intimate in writing the action taken and the grounds of his belief to the Magistrate having jurisdiction in the place.

11. Procedure for arrest, etc.— The provisions of the Code of Criminal Procedure, 1898⁵, relating to arrest, detention in custody, execution of warrants and searches shall be applicable to all actions taken in these respects by an excise officer under this Ordinance.

12. Special powers of excise officer.— (1) Government may, by notification, invest⁶ any excise officer, by virtue of his appointment, with power to investigate any offence punishable under this Ordinance committed within the limits of the area in which such officer exercises jurisdiction.

(2) Every excise officer empowered under sub-section (1) may, within the said limits, exercise, as far as may be, the same powers in respect of such investigation as an officer incharge of a police station may exercise in a cognizable case under the provisions of Chapter XIV of the Code of Criminal Procedure, 1898⁷.

13. Bail and security.— When any person arrested under this Ordinance is prepared to furnish bail, he shall be released on bail or, at the discretion of the officer making the arrest, on his own bond.

14. Aid to excise officer.— Every officer of the Police and Revenue Department shall be bound upon request made in that behalf to render lawful aid to any excise officer while acting under the provisions of this Ordinance.

⁵V of 1898.

⁶All excise officers have been invested with powers to investigate offences punishable under this Ordinance committed within their respective jurisdiction, see Gazette of West Pakistan, Pt. I., p.266.

⁷V of 1898.

15. Confiscation and destruction of opium and things seized.— Any implement or apparatus used or capable of being used exclusively for the manufacture of opium and any pipe or utensil for smoking opium, wherever found, shall be confiscated and destroyed under the orders of a Magistrate having jurisdiction in the area where such implement, apparatus, pipe or utensil is found.

16. Offences to be triable by first class Magistrate only.— No Magistrate other than a Magistrate of the first class shall try any offence punishable under this Ordinance.

17. Bar of suits and proceedings.— No suit or proceedings shall lie in any civil or criminal court for any act in good faith done or ordered to be done in pursuance of this Ordinance.

18. Repeal.— The enactments specified in the first three columns of the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

SCHEDULE
(See **SECTION 18**)

Year	No.	Short title	Extent of repeal
1	2	3	4
1940	XX	The Sind Opium Smoking Act, 1940.	The whole.
1948	VII	The Bahawalpur State Prohibition of Intoxicants Act, 1948.	(i) In clause (iv) of section 2, the words "and opium smoking" (ii) In section 3, clause (c).
1950	IV	The Baluchistan Opium Smoking Regulation, 1950.	The whole.
1953	XIII	The Punjab Prohibition of Opium Smoking Act, 1952.	The Whole.
1954	IV	The North-West Frontier Province Prohibition of Opium Smoking Act, 1954.	The whole.