

Repealed by Ord. 31 of 1929

## CHAPTER 191.

### OPIUM.

[No. XIII of 1926.]

[12th June, 1926.]

Short title.

1. This Ordinance may be cited as the Opium Ordinance.

Interpretation.

2. In this Ordinance,—

“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 any preparation of opium, or any preparation in which opium, or any residuum of smoked opium, forms an ingredient, which preparation is used or may be used for smoking;

“medicinal opium” means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the national pharmacopœia, whether in powder form, or granulated, or otherwise, or mixed with neutral materials;

“compounds of opium” means any substance, except opium prepared for smoking purposes, which contains any constituent or alkaloid or salt or derivative of an alkaloid of opium;

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

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

“cocaine” means methyl-benzoyl lævo-ecgonine ( $[a]_{D20} = -16.4$  in 20 per cent. solution of chloroform) of which the formula is  $C_{17}H_{21}NO_4$ ;

“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 erythroxylace 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;

“ecgonine” means lævo ecgonine ( $[\alpha]_{D20} = -45.6$  in 5 per cent. solution of water) of which the formula is  $C_{17}H_{15}NO_3 \cdot H_2O$ , and all the derivatives of lævo-ecgonine which might serve industrially for its recovery;

“similar drugs” includes—

(a) all preparations, whether officinal or non-officinal, including the so-called anti-opium remedies, containing more than 0.2 per cent. of morphine, or more than 0.1 per cent. of cocaine;

(b) all preparations containing diacetylmorphine;

(c) morphine, cocaine, ecgonine, their respective salts, and all derivatives of morphine, of cocaine, of ecgonine, or of their respective salts, and every other substance which has been demonstrated to be liable to similar abuse and its abuse productive of like ill-effects;

“opium” when used without any qualifying epithet shall be taken to include “raw opium,” “medicinal opium,” “compound of opium,” “morphine,” “diacetylmorphine,” “cocaine,” “coca leaf,” “crude cocaine,” “ecgonine,” and “similar drugs,” as well as substances or mixtures containing any proportion of those substances or of any constituent thereof;

“corresponding law” in this Ordinance means any law stated in a certificate, purporting to be issued by or on behalf of the Government of any place 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 opium in accordance with the provisions of the International Opium Convention signed at Geneva on the nineteenth day of February, nineteen hundred and twenty-five and any statement in that certificate as to the effect of the law mentioned therein, or any statement therein that any facts constitute an offence against that law, shall be conclusive, and the certificate shall be

admitted in evidence upon production by or on behalf of the prosecution in any proceeding; "ship" includes every description of vessel used in navigation or for the carriage or storage of goods.

Unlawful to import prepared opium ;

cultivate the opium poppy ; import opium except by sea ; import opium through the post.

Opium to be deposited in a colonial bonded warehouse.

Opium withdrawn on medical officer's authority.

Restrictions on dealings in opium :

3.—(1) It shall not be lawful—

- (a) to import into this colony any prepared opium ;
- (b) to export from this colony any prepared opium ;
- (c) to manufacture, keep, possess, buy, sell, barter, or use any prepared opium ;
- (d) to plant or cultivate the opium poppy (*papaver somniferum*) ;
- (e) to import any opium into the colony except by sea ;
- (f) to import any opium into the colony by post.

(2) The Postmaster General may detain and open any postal packet which he suspects to contain opium.

4. All opium on importation shall be deposited, at the cost, risk and peril of the person or persons importing it, in a colonial bonded warehouse.

5. No opium shall be delivered or withdrawn from a colonial bonded warehouse except on the written authority of the Surgeon General or a government medical officer authorised by him in writing, but that authority shall not be granted to anyone except a registered medical practitioner, a registered dentist, or a registered chemist and druggist.

6.—(1) Except under and in accordance with a licence granted by the Governor, no person or firm shall, whether on his or its own behalf or on behalf of any other person or firm, buy or sell, or supply or procure, or offer to supply or procure, or otherwise deal in or offer to deal in, any raw opium, whether the raw opium be in the colony or elsewhere, and whether it be ascertained or appropriated or in existence or not; and, except under and in accordance with a licence granted by the Governor, no person or firm shall import or export any raw opium, or do any act preparatory to or for the purpose of importing or exporting any raw opium, or have any raw opium in his or their possession.

(2) Subject to the obtaining of a licence under the last preceding sub-section before importation, any raw opium imported by water from a place from which by the law of that place it may be legally exported under a

through bill of lading for any place into which it may by the law of that place be imported, may be imported into the colony, and may be exported to that place if the following conditions are observed:—

- (a) the ship on which the raw opium is imported shall proceed direct and forthwith to the port of Georgetown and forthwith enter that port;
- (b) full particulars as to the description, weight, consignors, consignees, and destination, of the raw opium, and as to the marks and numbers of the cases in which it is contained shall appear in the manifest of the ship;
- (c) the presence of the raw opium on board the ship shall be reported in writing to the Surgeon General by the master of the ship within four hours after her arrival at the port of Georgetown:

Provided that if the office of the Surgeon General is not open for the four hours immediately after the arrival of the ship at the port of Georgetown, the report required by this paragraph may be made to the inspector on duty at the central police station, Brickdam;

- (d) the raw opium shall not be exported except under, and in accordance with, a permit issued by the Surgeon General;
- (e) the chest, box, case, or package containing the raw opium shall be imported, and shall while in the colony be maintained unopened and unbroken unless it is opened or broken during and for the purposes of some search authorised by law;
- (f) a certificate in form 1 in the schedule hereto, or in some form which appears to the Surgeon General to be equivalent, shall accompany the raw opium on the ship and shall be produced to the Surgeon General at least four hours before the raw opium is exported;
- (g) the raw opium shall be exported with all reasonable expedition;
- (h) the ship on which the raw opium is exported shall, on leaving the port of Georgetown, proceed direct forthwith out of the waters of the colony;
- (i) the exportation of the raw opium shall be reported in writing to the Surgeon General by the owner, charterer, or agent, of the ship within forty-

Proviso.

Schedule;  
form 1.

eight hours after the departure out of the waters of the colony of the ship on which the raw opium is exported.

(3) No export permit shall be issued under paragraph (d) of the last preceding sub-section until there has been produced to the Surgeon General a certificate in form 1 in the schedule hereto, or in some form which appears to the Surgeon General to be equivalent, nor shall that permit be issued until the Surgeon General is satisfied that the certificate is genuine and relates to the raw opium sought to be exported and has not been obtained by any misrepresentation.

Form 1.

(4) Sub-section (1) of this section shall not apply to any raw opium imported by the Surgeon General and in his possession or under his control.

Licence under section 6 (1) and its revocation discretionary.

7. The granting of any licence under sub-section (1) of the last preceding section and the revocation thereof shall lie in the absolute discretion of the Governor, who may impose upon the grant thereof any conditions he thinks fit.

Export permit; form 2.

8. An export permit may be in form 2 in the schedule hereto and shall be in the absolute discretion of the Surgeon General who may impose any conditions he thinks fit.

Master of ship carrying opium to have memorandum containing particulars; form 3.

9. The Surgeon General shall furnish the master of every ship carrying raw opium for export with a memorandum containing the particulars set forth in form 3 in the schedule hereto, and no ship carrying raw opium shall depart from the colony without that memorandum.

Opium not to be kept in a place other than a store without authority.

10. Where any opium is without the proper authority found in the possession of anyone, or kept by anyone in a place other than a colonial bonded warehouse, that person, and, unless he can prove that the opium was deposited there without his knowledge or consent, the occupier of that place, and also the owner of any opium so found, shall each be deemed to be guilty of an offence.

Search warrant.

11.—(1) A magistrate, if satisfied by information on oath that any opium or prepared opium is being dealt with in contravention of this Ordinance at any place, whether a building or not, or in any ship not being or having the status of a ship of war, or in any vehicle, may grant a warrant to enter at any time, and if need be by force, on Sundays as well as on any other days, the place, ship, or vehicle named in the warrant, and every part thereof, and

examine it, and search for any opium or prepared opium unlawfully kept therein, and demand from the owner or occupier thereof the production of the authority for being in possession of the opium or prepared opium.

(2) When the officer or other person executing the warrant has reasonable cause to believe that any opium or prepared opium found by him in the place, ship, or vehicle, is being dealt with in contravention of this Ordinance he may seize and detain it until the magistrate has decided whether it is liable to be forfeited or not.

Seizure of prepared opium or opium.

(3) Anyone acting under the warrant shall not be liable to any suit for the seizure or detention of any opium or prepared opium.

Protection of officers from actions.

12.—(1) The Governor in Council may make the regulations he considers expedient for controlling the importation, exportation, manufacture, sale, possession, movement, and distribution, of opium, and in particular, but without prejudice to the generality of the foregoing power, for—

Regulations.

- (a) prohibiting the manufacture of any drug to which this Ordinance applies except on premises licensed for the purpose and subject to any condition specified in the licence;
- (b) prohibiting the manufacture, sale, possession, movement, or distribution, of that drug except by persons licenced or otherwise authorised under the regulations, and subject to any conditions specified in the licence or authority;
- (c) regulating the issue by medical practitioners of prescriptions containing that drug and the dispensing of any such prescription; and
- (d) requiring persons engaged in the manufacture, sale, or distribution of that drug to keep the prescribed books and furnish the prescribed information either in writing or otherwise.

(2) Nothing in any regulations 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 anyone who is not qualified in that behalf under or otherwise than in accordance with the provisions of the Pharmacy and Poisons Ordinance, or any amendment or re-enactment thereof, or to be in derogation of the provisions of that Ordinance, or any amendment or re-enactment thereof, prohibiting, restricting, or regulating the sale of poisons.

Chapter 103.

Ordinance may apply to drugs not already provided for.

13. If it appears to the Governor in Council that any other 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, of ill effects substantially of the same character or nature as or analagous to those produced by morphine or cocaine, he may declare that this Ordinance shall apply to that other derivative or alkaloid or other drug in the same manner as it applies to the drugs mentioned herein.

Accused persons may give evidence for prosecution in certain cases.

14.—(1) Whenever two or more persons are charged with any offence against this Ordinance, the magistrate may permit any of them to give evidence for the prosecution.

(2) Everyone so permitted to give evidence who in the opinion of the Magistrate makes true and full discovery of all things as to which he is lawfully examined shall be entitled to receive a certificate of indemnity under the hand of the magistrate, stating that he has made that true and full discovery, and the certificate shall be a bar to all legal proceedings against him in respect of all the things aforesaid.

Presumptions.

15.—(1) Everyone proved to have had in his possession or under his control anything whatsoever containing opium shall, until the contrary is proved, be deemed to have been in possession of that opium.

(2) Everyone proved to have had in his possession or under his control, or subject to his order, any document of title relating to any thing whatsoever containing opium shall, until the contrary is proved, be deemed to have been in possession of that opium.

Offences.

16.—(1) Everyone who—

- (a) acts in contravention of, or fails to comply with, any provisions of this Ordinance or of any regulation made under it; or
- (b) acts in contravention of, or fails to comply with, the conditions of, any licence or permit issued or authority granted under or in pursuance of this Ordinance; or,
- (c) for the purpose of obtaining, whether for himself or for another, the issue, grant or renewal of any licence or permit or authority aforesaid, makes any declaration or statement which

is false in any particular, or knowingly utters, produces, or makes use of, that declaration or statement or any document containing it; or

- (d) in the colony aids, abets, counsels, causes, 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 (wherever to be committed) which if committed in the colony would constitute an offence against this Ordinance,

shall be guilty of an offence against this Ordinance, and shall upon summary conviction be liable, for a first offence to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, and for a second and any subsequent offence to a penalty not exceeding two thousand dollars or to a term of imprisonment not exceeding twelve months.

Penalty.

(2) Everyone who aids, abets, counsels, causes, or procures, the commission of any offence under this Ordinance shall be liable to be prosecuted and convicted for doing so, either together with the principal offender or before or after his conviction, and shall be liable on summary conviction to the same punishment as if he had committed an offence under this Ordinance.

Aiders and abettors.

(3) Everyone who attempts to commit an offence against this Ordinance, or solicits or incites another to commit that offence, shall, without prejudice to any other liability, be liable on summary conviction to the same punishment as if he had committed an offence under this Ordinance.

Attempts to commit.

(4) 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, unless he proves that the act or omission constituting the offence took place without his knowledge and consent, be guilty of the like offence, and shall be liable to all the penalties and consequences to which a natural person would be liable upon conviction of the offence.

Companies.

(5) Where the person convicted of an offence under this Ordinance is a firm, every partner in the firm, and everyone concerned in the management of the firm, shall, unless he proves that the act or omission constituting the offence occurred without his knowledge and consent, be guilty of the like offence and be liable to all the penalties

Firms.



and consequences to which a natural person would be liable upon conviction of the offence.

Commence-  
ment of  
proceedings.

(6) Notwithstanding the provisions of any enactment prescribing the time within which proceedings for an offence punishable upon summary conviction may be commenced, any summary proceedings for an offence under this Ordinance, or for aiding or abetting or counselling or causing or procuring that offence, or for attempting to commit that offence, or for soliciting or inciting another to commit that offence, may be commenced, either within the time so prescribed or within six months from the date on which evidence sufficient in the opinion of the Surgeon General to justify prosecution comes to his knowledge, whichever time is the longer, and for the purposes of this sub-section a certificate, purporting to be signed by the Surgeon General as to the date on which that evidence came to his knowledge shall be conclusive evidence thereof.

(7) For the purposes of the last preceding subsection, the issue of a summons or warrant shall be deemed to be the commencement of proceedings, whether the summons or warrant is executed or not.

(8) For the purpose of removing doubts, it is hereby declared that—

in any proceedings against anyone under this Ordinance it is not necessary to negative by evidence any licence, authority, or other matter of exception or defence, and the burden of proving that matter lies on the person seeking to avail himself thereof.

(9) Whenever anyone to whom any licence or permit or authority has been issued or granted under this Ordinance would be liable under the provisions of this Ordinance or of any regulations made under it to punishment, penalty, or forfeiture for any act, omission, neglect, or default, he shall be liable to the same punishment, penalty, or forfeiture for every similar act, omission, neglect, or default, of any agent or servant employed by him in the course of his business; and every agent or servant employed by him in the course of his business shall also be liable to every punishment, penalty, or forfeiture, prescribed for those acts, omissions, neglects, or defaults, contrary to the provisions of this Ordinance as fully and effectually as if the agent or servant had been the person to whom the licence or permit or authority had been issued or granted.

17. Any offence created or penalty imposed by this Ordinance or by any regulations made under it may be prosecuted or recovered under the Summary Jurisdiction (Procedure) Ordinance by any officer of customs, by any commissary, or by any member of the police force.

Recovery of penalties.

Chapter 14.

18. A magistrate may order to be forfeited to the Crown—

Forfeiture.

- (a) any opium with respect to which any offence against this Ordinance has been committed, whether anyone has been charged with or has been convicted of that offence or not;
- (b) any implements which have been seized in any search, unless they have been used only in connection with Government opium;
- (c) any unclaimed opium or implements.

SCHEDULE OF FORMS.

1.

(Section 6.)

IMPORT CERTIFICATE.

OPIUM ORDINANCE.

Permission is hereby granted to (1)

to import into this colony (2)

from (3)

(4)

(1) State name, address, and business of importer.

(2) State exact amount of raw opium to be imported.

(3) State name and address of exporting country from which the raw opium is to be obtained.

(4) State any special conditions to be observed as required by licence granted by the Governor under section 6 (1) of the Ordinance.

Dated this                      day of                      , 19

Surgeon General.

2.

(Section 8.)

EXPORT PERMIT.

OPIUM ORDINANCE.

Permission is hereby granted to \_\_\_\_\_ subject to  
 the conditions set out below, to move the raw opium described hereunder  
 from \_\_\_\_\_  
 to \_\_\_\_\_

Import- ing ship.	Date of arrival.	Number of packages.	Marks and numbers.	Kind of opium.	Weight of opium.	Remarks.

CONDITIONS.

1. This permit may be used only between \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m. on \_\_\_\_\_ the \_\_\_\_\_ 19 \_\_\_\_\_.
2. If this permit is not used within the hours and on the day specified it must be returned to the Surgeon General forthwith.
3. The opium must not be moved unless an officer of customs is present.
4. The permit must be produced whenever demanded by an officer of customs or police officer.

Date \_\_\_\_\_

Surgeon General.

NOTE.—The conditions may be varied or added to by the Surgeon General.

3.

(Section 9.)

EXPORT MEMORANDUM.

OPIUM ORDINANCE.

Memorandum of raw opium for export per s.s.

on

Permit number.	Marks.	Govt. number.	Number of packages.	Kind of opium.	Weight of opium.	Exporter.	Destination.

Surgeon General.