

OFFICE OF THE CHIEF COMMISSIONER,
ANDAMAN AND NICOBAR ISLANDS.

NOTIFICATION.

Port Blair, the 4th September 1955.

No. 90/55.—The following Regulation promulgated by the President under clause (2) of article 243 of the Constitution, which was published in the Gazette of India, Extraordinary, Part II, Section I, dated the 29th March 1955, is hereby republished for general information.

THE ANDAMAN AND NICOBAR ISLANDS
OPIUM SMOKING (PROHIBITION)
REGULATION, 1955.

No. 3 OF 1955

Promulgated by the President in the Sixth Year
of the Republic of India

A Regulation to amend and consolidate the law
relating to the prohibition of opium smoking in
the Andaman and Nicobar Islands.

In exercise of the powers conferred by clause (2) of article 243 of the Constitution, the President is pleased to promulgate the following Regulation made by him :—

1. (1) This Regulation may be called the Andaman and Nicobar Islands Opium Smoking (Prohibition) Regulation, 1955.
- (2) It extends to the whole of the territory of the Andaman and Nicobar Islands.

Short title, extent
and commence-
ment.

- (3) It shall come into force at once.

2. In this Regulation, unless the context otherwise requires,—

Definitions.

- (a) "Chief Commissioner" means the Chief Commissioner of the Andaman and Nicobar Islands;
- (b) "Collector" means the Collector of land revenue in the Islands and includes any other person appointed by the Chief Commissioner to discharge all or any of the functions or to exercise all or any of the powers of the Collector under this Regulation in relation to any local area;
- (c) "Excise-officer" means any person who may be appointed by the Chief Commissioner to discharge all or any of the functions or to exercise all or any of the powers of an Excise-officer under this Regulation in relation to any local area;
- (d) "Islands" means the Andaman and Nicobar Islands;
- (e) "notification" means a notification published in the Official Gazette;
- (f) "opium smoker" means a person who smokes prepared opium;
- (g) "place" includes a building, house, shop, booth, tent, vessel, raft, vehicle and enclosure, and any part thereof;
- (h) "prepared opium" means *chandu*, *madak* or any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and includes the dress or other residue remaining after opium is smoked; and
- (i) "registered" in relation to any person means registered on or before the thirtieth day of September, 1953, as a smoker

Validation of certain acts and proceedings. 3. All acts and proceedings which have been done and taken with respect to registration of opium smokers in the Islands on or before the thirtieth day of September, 1953, by the Chief Commissioner or by any person acting under the authority of the Chief Commissioner or otherwise in pursuance of any order or notification made or issued by the Chief Commissioner before the commencement of this Regulation, shall be valid and operative, as if such acts and proceedings had been done and taken in accordance with law; and all persons registered in pursuance of any such order or notification made or issued by the Chief Commissioner, shall be deemed to have been registered under this Regulation, as if this Regulation was in force on the date of such order or notification and authorised the registration of opium smokers in the Islands on or before the thirtieth day of September, 1953, in accordance with the provisions of such order or notification.

Smoking of prepared opium. 4. Whoever, not being registered, smokes prepared opium shall be punished for the first offence with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and for every such subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Presumption of smoking prepared opium in certain cases. 5. If any person, not being registered, is found in possession of prepared opium or of any apparatus used for the smoking of, or in the manufacture of, prepared opium, it shall be presumed, until the contrary is proved, that such person smokes prepared opium.

Manufacture, possession or sale of prepared opium. 6. Whoever manufactures, possesses, barter, sells, keeps or exposes for sale or attempts to sell any prepared opium, or assists any other person whether registered or not, in the manufacture of prepared opium, shall be punished with imprisonment which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Exception.—Manufacture, or possession for his own use, by a registered opium smoker of prepared opium, not exceeding one tola in weight or such other lesser quantity as the Chief Commissioner may, by notification, direct, shall not be an offence under this section.

Keeping or having charge of place used for smoking prepared opium. 7. Whoever opens, keeps or uses any place, or permits any place to be used, for the purpose of enabling two or more persons, whether registered or not, to meet together to smoke prepared opium, or has the care of management of or in any way assists in conducting the business of, any place used or kept for the said purpose, shall be punished with imprisonment which may extend to two years or with fine which may extend to two thousand rupees, or with both.

Smoking of prepared opium in Assembly of two or more. 8. If two or more persons, whether registered or not, assemble in any place for the purpose of smoking prepared opium, each such person shall be punished with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Presumption from presence of prepared opium, etc., in certain places. 9. If any prepared opium or any apparatus used for smoking, or in the manufacture of, prepared opium, is found in any place where two or more persons, whether registered or not, are assembled, it shall be presumed, until the contrary is proved, that the place is used, and that the persons are present in such place, for the purpose of smoking prepared opium.

Security for abstaining from offences. 10. (1) Whenever any person is convicted of an offence punishable under this Regulation, the Magistrate may, in addition to any sentence which may be passed by him, order such person to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of offences under this Regulation during such period, not exceeding three years, as he thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule annexed to this Regulation and the provisions of the Code of

11. (1) If the Collector or a Magistrate of the first class or second class, upon information received and after such inquiry, if any, as he considers necessary, has reason to believe that any place is used for the commission of an offence under this Regulation, he may, after recording the substance of the information,—

Power to enter and search any place and to seize articles and to arrest persons found in such place.

(a) enter such place by day or night with such assistants as he may consider necessary;

(b) search all parts of such place in which he has reason to believe that any prepared opium or any apparatus for the smoking of such opium or for the manufacture thereof, is concealed and all or any of the persons whom he may find in such place;

(c) arrest any person found in such place, whom he has reason to believe to be guilty of an offence under this Regulation; and

(d) seize all prepared opium and apparatus for the smoking or for the manufacture thereof, which may be found in such place; or

(e) issue a warrant to any Excise-officer or any Police Officer (not below the rank of a Sub-Inspector) authorising such officer to do any of the acts specified in clauses (a), (b), (c) and (d) of this sub-section.

(2) Whenever any Excise-officer or any Police Officer (not below the rank of a Sub-Inspector) has reason to believe that any place is used for the commission of an offence under this Regulation and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, such officer may, after recording the grounds of his belief, do any of the acts specified in clauses (a), (b), (c) and (d) of sub-section (1).

V of 1898.

12. (1) The provisions of the Code of Criminal Procedure, 1898 shall apply to the execution of warrants and to searches made under section 11.

Application of Code of Criminal Procedure, 1898 to warrants and searches under section 11.

(2) For the purpose of the said provisions of the said Code, the Collector shall be deemed to be a Court.

13. (1) Whenever any officer makes an arrest or seizure under this Regulation, he shall without delay, and in any case within twenty-four hours, forward every person arrested and everything seized with full particulars of the arrest or seizure to the Collector or to the Magistrate, as the case may be, by whom the warrant was issued, or to the nearest police-station, if the arrest or seizure was made by such officer while exercising his powers under sub-section (2) of section 11.

Report to be made in case of arrest or seizure.

(2) In the case of any arrest or seizure made under the authority of a warrant issued by the Collector, the said officer shall, unless the Collector proceeds under section 14, within the aforesaid period of twenty-four hours, forward the person and things produced before the Collector to a Magistrate having jurisdiction to try the case together with full particulars of the arrest or seizure.

14. (1) The Collector may, without the order of a Magistrate, investigate any offence punishable under this Regulation which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to try.

Powers of Collector to investigate offences.

(2) The Collector may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise any of the powers conferred upon a Police Officer making an investigation, or upon an officer in charge of a police-station by sections 160 to 171 of the Code of Criminal Procedure, 1898.

V of 1898.

(3) The Collector may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned in any offence which he has investigated.

(4) As soon as an investigation by the Collector has been completed, if it appears to him that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the Collector shall submit a report [which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898, be deemed to be a police

V of 1898.

(5) The powers conferred on the Collector by this section may, subject to the control of the Collector, be exercised by an Excise-officer, duly empowered by the Chief Commissioner in this behalf.

and 15. Whenever any person arrested under this Regulation is prepared to furnish bail to the satisfaction of the officer making the arrest, he shall be released on bail, or at the discretion of the officer making the arrest on his own bond.

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icers. 16. Every officer of the Police, Forest or Land Revenue Department shall be bound to give reasonable aid to the Collector and Excise-officers in carrying out the provisions of this Regulation upon a request made by such officer.

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destroy
ized. 17. On the conclusion of a trial for an offence under this Regulation, the Magistrate may order that any prepared opium and any instrument or appliance in respect of, or by means of which such offence has been committed, or appears to have been committed, or any receptacle, package or covering in which such prepared opium, instrument or appliance was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

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certain
cs 18. No Magistrate other than a Magistrate of the first class or a Magistrate of the second class specially empowered by the Chief Commissioner in this behalf, shall try any offence punishable under this Regulation.

ce of 19. No Magistrate shall take cognizance of an offence punishable under this Regulation except on the complaint or report of the Collector or an Excise-officer or a Police Officer (not below the rank of a Sub-Inspector).

y- 20. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Regulation.

make 21. The Chief Commissioner may, by notification, make rules for the purpose of carrying into effect the provisions of this Regulation.

Provided that no such rule shall authorise the registration of opium smokers after the commencement of this Regulation.

Provided further that in making such rules, the Chief Commissioner may cancel, rescind, vary or otherwise amend any order or notification made or issued by him before the commencement of this Regulation.

22. The Andaman Islands Opium Smoking Regulation, 1940 is hereby repealed.

Regulation
X of 1940.

THE SCHEDULE.

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE
ANDAMAN AND NICOBAR ISLAND OPIUM SMOKING (PROHIBITION)
REGULATION, 1955.
(See section 10)

Whereas I
(name) son
..... of
wife
(father's name or husband's name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of
offences under the Andaman and Nicobar Islands Opium Smoking (Prohibition)
Regulation, 1955 for the term of
(period) I hereby bind myself not to commit any such offence
during the said term, and in case of my making default therein, I hereby bind my-
self to forfeit to Central Government, the sum of rupees
Dated this day 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 offences under the Andaman and
Nicobar Islands Opium Smoking (Prohibition) Regulation, 1955 during the said
term, and, in case of his making default therein, we bind ourselves, jointly and
severally to forfeit to the Central Government the sum of rupees
Dated this day of 19

Signature.

Signature.

RAJENDRA PRASAD

President.

K. Y. BHANDARKAR,

Secy. to the Govt. of India.

BHAGWAN SINGH,

Secretary to the Chief Commissioner,
Andaman & Nicobar Islands.