

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

(W.P. Ordinance No. II of 1960)

CONTENTS

Preamble.

Sections.

1. Short title and extent.
2. Definitions.
3. Prohibition of opium smoking.
4. Offences and punishment.
5. Penalty when owner fails to give notice of use of place for opium smoking, etc.
6. Penalty for keeping or using a place used for opium smoking.
7. Penalty for offences not otherwise provided for.
8. Presumption raised by presence of opium smoking appliances.
9. Search, Warrants and powers to search.
10. Power of excise officers to search without warrant.
11. Procedure for arrest, etc.
12. Special powers of excise officer.
13. Bail and security.
14. Aid to excise officer:
15. Confiscation and destruction of opium and things seized.
16. Offences to be triable by first class Magistrate only.
17. Bar of suits and proceedings.
18. Repeal.

SCHEDULE.¹[* * *]

¹. Schedule omitted vide Khyber Pakhtunkhwa Adapt. of Laws Order, 1975.

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

(W.P. ORDINANCE No. 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.*

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

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, and 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. (1) This Ordinance may be called the West Pakistan Prohibition of Opium Smoking Ordinance, 1960. Short title and extent.

(2) It extends to the whole of the ¹[Pakistan] except the ²[Tribal Areas.]

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

(a) “Collector” means any officer appointed by Government to discharge throughout any specified local area the functions of Collector under this Ordinance;

(b) “Excise officer” means any officer of the Excise Department not below the rank of a Sub-Inspector;

(c) “Government” means the ³[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

¹. In Section-1 in sub-section (2) for the words “Province of West Pakistan” the word Pakistan subs by P.O. 4 of 1975.

². In section-1 in sub section (2) for the words Federal Capital and the Special Areas” the words “Tribal Areas” subs, by W.P. Ord. VII of 1964.

³. In section-1, in clause (e) for the words “Government of West Pakistan”, the words “Provincial Government”, subsby p. 0.41975.

dross or other residue remaining after opium is 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. 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. Prohibition of opium smoking.
 4. 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. Offences and punishments.
 5. 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 in charge of the nearest police station, shall be punished with fine which may extend to five hundred rupees. Penalty when owner fails to give notice of use of place for opium smoking, etc.
 6. Whoever keeps or uses any place or permits any place to be kept or used 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 of, 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. Penalty for keeping or using a place used for opium smoking.
 7. 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. Penalty for offences not otherwise provided for.
 8. 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. Presumption raised by presence of opium smoking applications.
 9. 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 authorizing him – Search warrant and powers to search.

- (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. (1) Whenever an excise officer has reason to believe that an offence punishable under sections 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.

Powers of excise officers to search without warrant.

(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 behalf to the Magistrate having jurisdiction in the place.

11. The provisions of the Code of Criminal Procedure, 1898, 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.

Procedure for arrest, etc.

12. (1) Government may, by notification, invest 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 exercise jurisdiction.

Special powers of excise officer.

(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 in charge of a police station may exercise in a cognizable case under the provisions of Chapter XIV of the Code of Criminal Procedure, 1898.

13. 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.

Bail and security.

14. 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.

Aid to excise officer.

15. 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. Confiscation and destruction of opium and things seized.
16. No Magistrate other than a Magistrate of the first class shall try any offence punishable under this Ordinance. Offences to be triable by first class Magistrate only.
17. 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. Bar or suits and proceedings.
- ¹[18. The North-West Frontier Province Prohibition of Opium Smoking Act, 1954 (N.-W.F.P. Act. IV of 1954), is hereby repealed]. Repeal.

SCHEDULE ²[* * *]

¹. Section –18 subs, by Khyber Pakhtunkhwa., Adapt. of Laws Order, 1975.

². Schedule omitted vide order ibid.