

Poisons, Opium And Dangerous Drugs (Amendment)
Act No 13 of 1984

AN ACT TO AMEND THE POISONS, OPIUM AND DANGEROUS
DRUGS ORDINANCE.

Act Nos,
13 of 1984

Short title. **1.** This Act may be cited as the Poisons, Opium and Dangerous Drngs (Amendment) Act.

Replacement of section 28 and 29 of Chapter 549. [§ 2,13 of 1984] **2.** Sections 28 and 29 of the Poisons, Opium and Dangerous Drugs Ordinance (hereinafter referred to as the "principal enactment ") are hereby repealed and the following sections substituted therefor :

Prohibition against import and export of poppy, & c.
28. No poppy plant, coca plant, or hemp plant, or seeds, pods, leaves, flowers, or any pan of any such plant or any preparation thereof, shall be imported or brought into or exported from Sri Lanka.

Prohibition against possession, sale, manufacture, store, obtain or have in his possession, use, & c, of consume, distribute or use
29. Except as provided for in Chapters IV and V hereafter, no person shall collect, prepare, process, sell or offer for

any preparation. & c, from the hemp plant, poppy plant or the coca plant.
(a) any resin obtained from the hemp plant for the preparations or extracts from the hemp plant commonly known as bhang, hashish or ganja or any other preparation of which such resin forms apart;

(b) any exudate obtained from the poppy plant or the preparation of or extracts from the poppy plant commonly known as opium, morphine, heroin or any other preparations of which such resin forms a part, and

(c) any preparations, alkaloids and salts from the coca plant."

Replacement of section 37 of the principal enactment [§3,13 of 1984] **3.** Section 37 of the principal enactment is hereby repealed and the following section substituted therefor :

Prohibition against use of premises
37. No person shall knowingly suffer or permit any of premises in his possession to be used as a place of resort for the purpose of eating, smoking, storing, consuming or consuming, administering any opium or any preparation thereof."

& c. of opium.

Repeal of sections 49 and 50 of the principal enactment. [§4,13 of 1984] **4.** Sections 49 and 50 of the principal enactment are hereby repealed.

Insertion of new section 54A and 54B in the principal enactment. [§5,13 of 1984]

5. The following new sections are hereby inserted immediately after section 54, and shall have effect as section 54A and section 54B of the principal enactment:

Prohibition 54A. Any person who

against manufacture, trafficking, import or export and possession of dangerous drugs.

(a) manufactures any of the following dangerous drugs, namely heroin or cocaine or morphine or opium shall be guilty of an offence against this Ordinance and shall on conviction by the High Court without a jury be liable to a sentence of death or life imprisonment;

(b) except as permitted by or otherwise than in accordance with the provisions of this Chapter or a licence of the Director, trafficks in any dangerous drug set out in Column II of Part III of the Third Schedule in excess of the amount set out in the said Column II shall be guilty of an offence against this Ordinance and shall on conviction by the High Court without a jury be liable to the penalty set out in the corresponding entry in Column III of that Part;

(c) except as permitted by or otherwise than in accordance with the provisions of this Chapter or a licence of the Director, imports or exports any dangerous drug set out in Column II of Part III of the Third Schedule in excess of the amount set out in the said Column II shall be guilty of an offence against this Ordinance and shall on conviction by the High Court without a jury be liable to the penalty set out in the corresponding entry in Column III of that Part;

(d) except as permitted by or otherwise than in accordance with the provisions of this Chapter or a licence of the Director, possesses any dangerous drug set out in Column II of Part III of the Third Schedule in excess of the amount set out in the said Column II shall be guilty of an offence against this Ordinance and shall on conviction by the High Court without a jury be liable to the penalty set out in the corresponding entry in Column III of that Part.

In this section:

" manufacture " in relation to a dangerous drug includes any process of producing such drug and the refining or transformation of one drug into another;

" traffic" means

(a) to sell, give, procure, store, administer, transport, send, deliver or distribute; or

(b) to offer to do anything mentioned in paragraph

(a).

Abetting in
the
commission
of an
offence
under
section
54A.

54B. Any person who abets the commission of or who attempts to commit or does any act preparatory to or in furtherance of the commission of any offence under section 54A shall be guilty of such offence and shall be liable on conviction to the punishment provided for such offence."

Amendment of section 69 of the principal enactment [§6,13 of 1984]

6. Section 69 of the principal enactment is hereby amended in paragraph (h) hereof by enactment the substitution for the words "' any such plant other than hemp rope", of the words" any such plant or any preparation thereof, other than hemp rope ".

Amendment of section 77 of the principal enactment [§7,13 of 1984]

7. Section 77 of the principal enactment is hereby amended in subsection (5) of that section by the substitution for the words "fine not exceeding five hundred rupees " . of the words " fine not exceeding five thousand rupees ".

Insertion of new section 77A and 77B in the principal enactment [§ 8, 13 of 1984]

8. The following new sections are hereby inserted immediately after section 77 and shall have effect as section 77, and section 77B, of the principal enactment:
"Analysis. 77A.

(1) Notwithstanding anything to the contrary in section 116 of the Code of Criminal Procedure Act, a police officer may submit any drug, substance, article or preparation seized by him or any portion thereof or any sample taken by him in relation to an offence committed under Chapter III or Chapter V of this Ordinance to the Government Analyst for examination.

(2) Where the Government Analyst has made an examination of any drug, substance, article or preparation submitted to him under subsection (1) he shall send to the police officer who submitted such drug, substance, article, preparation or any portion or sample thereof for examination, a report setting out the result of his examination and he shall forward a copy thereof to the Police Narcotics Bureau.

(3) A report submitted to the police officer under subsection (2) shall be received in evidence in any inquiry, trial or other proceeding under this Ordinance.

(4) The Government Analyst to whom any drug, substance, article, preparation or any portion or sample thereof had been submitted for examination under subsection (1) shall, after submitting his report thereon under subsection (2), send such drug, substance, article, preparation or the portion or

sample thereof to the Police Narcotics Bureau, which shall upon an order issued by the Magistrate for its destruction, forthwith cause such drug, substance, article, preparation or portion or sample thereof to be destroyed.

Protection 77B, In any proceedings before any court for an offence of the under Chapter III or Chapter V of this Ordinance, unless the identity of court makes an order to the contrary, if it is of the opinion an that justice demands such an order being made, no witness informer. shall be obliged to disclose the name and identity of the informer who has given information with respect to the commission of such offence or to answer any question if the answer thereto would lead or would tend to lead to the discovery of the identity of the informer."

Amendment of section 9. section 78 of the principal enactment is hereby amended by the 78 of the principal repeal of subsection(5) of that section and the substitution therefor of enactment.[§ 9,13 of the following subsection : 1984]

" (5) Every person guilty of an offence against this Ordinance, other than a person guilty of an offence under section 54A, shall for each offence, be liable

(a) on summary conviction by a Magistrate, to a fine not less than one thousand rupees and not exceeding ten thousand rupees or to imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment;

(b) on conviction before the High Court, to a fine not less than ten thousand rupees and not exceeding twenty-five thousand rupees or to imprisonment of either description for a period not less than six months and not exceeding seven years, or to both such fine and imprisonment." .

Insertion of new section 78A in the principal enactment. [§ 10,13 of 1984]

10. The following new section is hereby inserted immediately after section 78, and shall have effect as section 78A, of the principal enactment:

" Payment 78A. There shall be paid to the Police Reward Fund of certain established under section 73 of the Police Ordinance one-fines to third of each and every fine recovered for any offence the police committed under Chapter in or Chapter V of this Reward Ordinance.". Fund,

Replacement of section 79 of the principal enactment [§11,13 of 1984]

11. Section 79 of the principal enactment is the principal hereby repealed and the following section substituted therefor :

'Forfeiture 79.

(1) Where any person is convicted of an offence against this Ordinance or any regulation made there under the court shall order that all or any articles in respect of which the offence was committed and any boat, vessel, vehicle, aircraft or

airborne craft or equipment which has been used for the conveyance of such article shall, by reason of such conviction, be forfeited to the State.

(2) Any property forfeited to the State under subsection (1) shall

(a) if no appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which the period prescribed for preferring an appeal against such conviction expires ;

(b) if an appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which such conviction is affirmed on appeal.

In this subsection "relevant conviction" means the conviction in consequence of which any property is forfeited to the State under subsection (1).'

Insertion of new section 79A, of the principal enactment [§ 12, 13 of 1984]

12. The following new section is hereby inserted immediately after section 79, and shall have effect as section 79A, of the principal enactment:

'Control of acetylating substance. 79A.

(1) Any person who has in his possession an acetylating substance shall be guilty of an offence against this Ordinance unless he proves

(a) that he is licensed to possess such substance under this Ordinance;

(b) that he is authorized to possess such substance under this Ordinance : or

(c) that the acetylating substance is in his possession for a lawful purpose.

(2) In any prosecution for an offence under this section, any person who is found to have in his custody or under his control any acetylating substance shall be deemed to have been in possession of the substance and to have known the nature of the substance, unless he proves to the contrary.

(3) In this section " acetylating substance " means a substance which can introduce one or more acetyl groups (Ch. 3. Co-) into another substance by a chemical process. '

Insertion of new section 82 and 83 in the principal enactment, [§ 13,13

13. The following new sections are hereby inserted immediately after section 81, and shall have effect as section 82 and section 83, of the principal enactment:

of 1984]

"Special 82.

provisions
regarding
persons
arrested
under
Chapter
V.

(1) The provisions of sections 36, 37 and 38 of the Code of Criminal Procedure Act shall not apply in relation to persons being suspected or accused of contravening any provision of Chapter V of this Ordinance.

(2) A police officer making an arrest without a warrant of any person suspected or accused of committing an offence under Chapter V of this Ordinance, shall without unnecessary delay and within twenty-four hours of his arrest, produce such person before a Magistrate having jurisdiction in the case.

(3) The magistrate may, upon a certificate being filed by a police officer not below the rank of a Superintendent of Police or in his absence the officer acting on his behalf to the effect that it is necessary to detain such person in custody for the purpose of in vein gallon, make an order permitting the detention of such person in police custody for a period not exceeding seven days.

(4) Upon the conclusion of the investigation or upon the completion of the period of detention, whichever occurs first, such person shall be produced before the Magistrate and subject to the provisions of section 83 of this Ordinance the provisions of the Code of Criminal Procedure Act shall apply to and in relation to such person.

No bail for an 83.

offence under
sections 54A
or 54B except
in exceptional
circumstances

(1) No person suspected or accused of an offence under section 54A or section 54B of this Ordinance shall be released on bail, except by the High Court in exceptional circumstances.

(2) Notwithstanding the provisions of subsection (1), the provisions of the Criminal Procedure (Special Provisions) Law, No. 15 of 1978,* shall, so long as that law is in force, apply to and in relation to any person suspected or accused of an offence under this Ordinance."(See List of enactment omitted from the Revised Edition.)

Amendment of Third Schedule to the principal enactment.[§ 14, 13 of 1984]

14 The Third Schedule to the principal enactment is hereby amended as follows :

