

## New Zealand.

Amended by 1928 No. 32



### ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title and commencement.</li> <li>2. Interpretation.</li> <li>3. Governor - General may declare additional drugs or exempt certain preparations.</li> </ol> <p style="text-align: center;">PART I.<br/>IMPORTATION AND EXPORTATION.</p> <ol style="list-style-type: none"> <li>4. Interpretation. Application of certain provisions of Customs Act.</li> <li>5. Importation and exportation of dangerous drugs.</li> <li>6. Special terms may be inserted in export licenses to ensure that raw opium does not reach countries prohibiting entry.</li> </ol> <p style="text-align: center;">PART II.<br/>MANUFACTURE AND DISPOSAL.</p> <ol style="list-style-type: none"> <li>7. Interpretation.</li> <li>8. Dealings in and use of prepared opium prohibited.</li> <li>9. Licenses to manufacture, sell, &amp;c., other dangerous drugs.</li> </ol> <p style="text-align: center;">PART III.<br/>GENERAL.</p> <ol style="list-style-type: none"> <li>10. This Part to be read with Parts I and II respectively.</li> </ol> | <ol style="list-style-type: none"> <li>11. Justice may issue search-warrant.</li> <li>12. Power to demand production of books and to inspect stocks of drugs.</li> <li>13. Power of arrest of person suspected of committing an offence.</li> <li>14. Penalty for illegal import or export of dangerous drugs.</li> <li>15. Penalty for illegal manufacture, sale, &amp;c., of dangerous drugs.</li> <li>16. Offence to aid or abet commission of offence against corresponding law in another country.</li> <li>17. Failure to comply with conditions of license.</li> <li>18. Penalty for false statement.</li> <li>19. Failure to answer questions.</li> <li>20. General penalty for breach of provisions of Act.</li> <li>21. Minimum fines.</li> <li>22. Forfeiture of goods.</li> <li>23. Onus of proof in certain cases.</li> <li>24. Chief officers of a company liable for offence by company.</li> <li>25. Procedure in conduct of proceedings under Act.</li> <li>26. Governor-General may make regulations.</li> <li>27. Consequential amendments to Customs Act and Poisons Act.</li> <li>28. Repeals and savings. Schedule.</li> </ol> |
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1927, No. 18.

Title.

AN ACT to regulate the Importation, Exportation, Manufacture, Sale, Distribution, Use, and Possession of certain Dangerous Drugs.

[11th November, 1927.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title and commencement.

1. This Act may be cited as the Dangerous Drugs Act, 1927, and shall come into force on the first day of January, nineteen hundred and twenty-eight.

Interpretation.

2. (1) In this Act,—

“Dangerous drug” means (but subject to the provisions of section three hereof) any of the drugs, preparations, or substances set out in the Schedule to this Act, and any other drug, preparation, or substance of whatever kind declared, as hereinafter provided, to be a dangerous drug:

“Prepared opium” means opium prepared for smoking, and includes dross and any other residues remaining after opium has been smoked, and also includes any other form of opium other than raw opium and medicinal opium.

(2) In calculating for the purposes of this Act the percentage of any drug present in a preparation, the percentage in the case of a liquid preparation shall, unless otherwise prescribed, be calculated on the basis that a preparation containing one part per centum of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation and so in proportion for any greater or less percentage.

(3) In calculating for the purposes of this Act the percentage of morphine present in a preparation it shall be calculated as in respect of anhydrous morphine.

3. (1) The Governor-General may from time to time, by Order in Council, declare that any drug, preparation, or substance not included in the Schedule to this Act shall be a dangerous drug within the meaning of this Act if he is of opinion that such drug, preparation, or substance produces or is likely, if improperly used, to produce ill effects similar to those produced by the abuse of any of the dangerous drugs set out in the said Schedule.

Governor-General may declare additional drugs or exempt certain preparations.

(2) The Governor-General may from time to time, by Order in Council, declare that any preparation which is a dangerous drug shall cease to be a dangerous drug within the meaning of this Act if he is satisfied that by reason of its composition it cannot give rise to the drug habit, and that in practice its composition precludes the recovery of the drug the inclusion of which in the preparation brings it within the meaning of the term “dangerous drug.”

Gaz. 1928 p. 2873.  
Gaz. 1929 p. 1867.

Face.

1927 p. 44.

a.

Customs; and respectively as in the Customs Act, 1913.

(2) For the purposes of this Part of this Act the provisions of sections forty-four and forty-five of the Customs Act, 1913, relating to the importation and exportation of goods shall apply as if they had been incorporated in this Part, and they shall be deemed to have been so incorporated accordingly.

of certain provisions of Customs Act.

(3) Securities for compliance with the provisions of this Part of this Act may be required and taken by a Collector, and with respect thereto the provisions of sections one hundred and eighty-seven to one hundred and ninety-two of the Customs Act, 1913, shall apply.

(4) This Part of this Act is hereby declared to be one of the Customs Acts as that expression is defined in section three of the Customs Act, 1913, and the said section three is consequentially amended by omitting from the enumeration in subsection one the reference to the Opium Act, 1908, and substituting a reference to this Part of this Act.

5. (1) No person shall import into or export from New Zealand any prepared opium.

Importation and exportation of dangerous drugs.

(2) No person shall import into or export from New Zealand any other dangerous drug except pursuant to a license granted by the Comptroller.

(3) No license under the last preceding subsection to import any dangerous drug shall be granted except to a person licensed or otherwise authorized to manufacture, sell, distribute, or deal in dangerous drugs under Part II of this Act.

(4) Except with the approval of the Minister no license to export any dangerous drug shall be granted to any person who has been convicted of an offence against this Act or the Opium Act, 1908.

(5) Licenses granted under this section shall be in such form and shall be granted on such terms and subject to such conditions (which may include the payment of a license fee) as may be prescribed.

6. If at any time the importation of raw opium into any country is prohibited or restricted by the laws of that country there may, while that prohibition or restriction is in force, be attached to every license granted by the Comptroller authorizing the exportation of raw opium from New Zealand such supplementary conditions as appear to him necessary for preventing or restricting, as the case may be, the exportation of raw opium from New Zealand to that country during such time as the importation of raw opium into that country is so prohibited or restricted.

Special terms may be inserted in export licenses to ensure that raw opium does not reach countries prohibiting entry.

*Cf.* 10 & 11 Geo. V, c. 46, s. 2 (2)

## PART II.

### MANUFACTURE AND DISPOSAL.

7. In this Part of this Act "Minister" means the Minister of Health, and "Director-General" means the Director-General of Health.

8. (1) No person shall manufacture, sell, distribute, or otherwise deal in prepared opium.

(2) Every person who has in his possession any prepared opium is guilty of an offence against this Act, and shall be liable to a fine of one hundred pounds.

(3) No person being the occupier of premises shall permit those premises to be used for the preparation of opium for smoking, or for the storage, concealment, or sale of prepared opium, or for the smoking of opium.

(4) Every such occupier and every person who is concerned in the management of any premises used for any of the purposes mentioned in the last preceding subsection is guilty of an offence against this Act, and shall be liable to a fine of two hundred pounds or to imprisonment for three months, or to both such fine and imprisonment.

(5) Every person who has in his possession any pipes or other utensils for use in connection with the smoking of opium, or any utensils for use in connection with the preparation of opium for smoking, is guilty of an offence against this Act, and shall be liable to a fine of one hundred pounds.

(6) Every person who smokes or otherwise uses prepared opium, or is found without lawful excuse on any premises being used for the smoking of opium, is guilty of an offence against this Act, and shall be liable to a fine of fifty pounds.

Interpretation.

Dealings in and use of prepared opium prohibited.

9. (1) No person shall produce, manufacture, sell, distribute, or otherwise deal in any dangerous drug other than prepared opium, except pursuant to a license granted by the Director-General or pursuant to some other lawful authority :

Licenses to manufacture, sell, &c., other dangerous drugs.

Provided that, except with the approval of the Minister, no license shall be granted to any person who has been convicted of an offence against this Act, or who being a previous holder of a license has had it cancelled for any breach of the conditions thereof or of any provisions of this Act or the regulations thereunder.

(2) Licenses granted under this section shall be in such form and shall be granted on such terms and subject to such conditions (which may include the payment of a license fee) as may be prescribed.

### PART III.

#### GENERAL.

10. The provisions of this Part of this Act shall be read together with the provisions of Part I or Part II, as the case may require, and the relevant provisions of this Part shall be deemed to be incorporated in those Parts respectively.

This Part to be read with Parts I and II respectively.

11. If a Justice is satisfied by information on oath that there is reasonable ground for suspecting that any dangerous drugs are, in contravention of the provisions of this Act or of any regulation thereunder, in the possession or under the control of any person in any premises, or that there is in the possession or under the control of any person in any premises any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be, an offence against this Act, or, in the case of a transaction or dealing carried out or intended to be carried out in any place outside New Zealand, an offence against the provisions of any law corresponding to this Act in force in that place, he may grant a search-warrant authorizing the constable named in the warrant or any other constable, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant and to search the premises and any persons found therein, and if there is reasonable ground for suspecting that an offence against this Act has been committed in relation to any such drugs which may be found in the premises or in the possession of any such person, or that any document which may be so found is such a document as aforesaid, to seize and detain those drugs or that document, as the case may be :

Justice may issue search-warrant.

*Cf.* 13 & 14 Geo. V, c. 5, s. 1

Provided that, in the case of premises occupied by Chinese and suspected of being used for the preparation of opium for smoking or for the smoking of opium, or for the storage or concealment of prepared opium, a constable shall have and may exercise without a search-warrant all or any of the powers that would be conferred on him by the grant of a search-warrant as aforesaid.

12. (1) Any constable or any other person authorized by the Minister of Health shall for the purposes of the enforcement of the provisions of Part II of this Act have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller, or distributor of any dangerous drugs, and to demand the production of and to inspect

Power to demand production of books and to inspect stocks of drugs.

*Cf.* 10 & 11 Geo. V, c. 46, s. 10

any books or documents relating to dealings in any such drugs, and to inspect, weigh, measure, and record the stocks of any such drugs.

(2) If any person wilfully delays or obstructs any constable or other authorized person in the exercise of his powers under this section, or fails to produce or conceals or attempts to conceal any such books, documents, or stocks, he shall be guilty of an offence against this Act.

Power of arrest of person suspected of committing an offence.

*Cf.* 1913, No. 63, s. 243

13. (1) If any officer of Customs, Health, or Police has reasonable cause to believe or suspect or finds that any person has imported into or exported from New Zealand any dangerous drug in contravention of the provisions of this Act, or has been concerned in such importation or exportation, or is engaged in the manufacture, sale, or distribution of any dangerous drug in contravention of such provisions, or is in possession of any dangerous drug or other thing in contravention thereof, he may forthwith, or at any time within seven days after the supposed date of the offence, as the case may be, arrest that person without a warrant.

(2) The person so arrested shall as soon as possible be brought before a Magistrate or Justice of the Peace, <sup>Take in addition 1923 Inset</sup> but shall not be summarily tried for the offence except on an information laid by a Medical Officer of Health or a Collector of Customs in accordance with this Act.

(3) Pending the laying of such an information the Magistrate or Justice of the Peace before whom the accused is so brought may either discharge the accused from custody or adjourn the proceedings for any period not exceeding forty-eight hours; and may, if the proceedings are so adjourned, either remand the accused in custody or release him on recognizance to appear at the time and place to which the proceedings have been so adjourned in the same manner, so far as may be, as if an information had been laid against the accused by the officer by whom he has been so arrested.

(4) If at the time to which the proceedings have been so adjourned no information for any offence as aforesaid has already been laid in accordance with this Act the accused shall be discharged.

(5) The arrest or discharge of any person under this section shall not take away or in any manner affect the right of proceeding against him for the recovery of a penalty for the offence for which he was so arrested.

Penalty for illegal import or export of dangerous drugs.

14. (1) Every person who imports into or exports from, or attempts to import into or export from, New Zealand any dangerous drug in contravention of the provisions of Part I of this Act is guilty of an offence against this Act, and shall be liable to a fine of five hundred pounds or to imprisonment for twelve months, or to both such fine and imprisonment.

(2) Without affecting any other liability he may have incurred under this Act any person found in possession of any dangerous drug imported in contravention of the provisions of this Act shall be liable to a fine of one hundred pounds unless he proves—

(a) That he obtained possession thereof without knowledge that it was illegally imported; or

(b) That he obtained possession thereof with some other lawful justification.

Penalty for illegal manufacture, sale, &c., of dangerous drugs.

15. Every person who produces, manufactures, sells, distributes, or otherwise deals in any dangerous drug in contravention of the provisions of Part II of this Act is guilty of an offence against this Act, and

shall be liable to a fine of five hundred pounds or to imprisonment for twelve months, or to both such fine and imprisonment.

16. Every person who in New Zealand aids, abets, counsels, or procures the commission in any place outside New Zealand of any offence punishable under the provisions of any law corresponding to this Act and in force in that place, or who does any act preparatory to or in furtherance of the commission out of New Zealand of any act which if committed in New Zealand would constitute an offence against this Act, is guilty of an offence, and shall be liable to a fine of five hundred pounds or to imprisonment for twelve months, or to both such fine and imprisonment.

Offence to aid or abet commission of offence against corresponding law in another country. Cf. 13 & 14 Geo. V, c. 5, s. 2

17. Every person who acts in contravention of or fails to comply with the terms or conditions of any license issued under or in pursuance of this Act is guilty of an offence, and shall be liable to a fine of one hundred pounds.

Failure to comply with conditions of license.

18. (1) Every person who for the purpose of obtaining, whether for

Penalty for false

1927 P. 48.

Sec. 13 (2) & (3).

Amded by Sec. 2 (1)/1928/32 by omittg from S.S. (2) all words after "Peace" and substg the words "to be dealt with as hereinafter provided" AND by omittg from S.S. (3) the word "such" in first line.

... OFFENCE AGAINST THIS ACT, AND SHALL BE LIABLE TO A FINE OF FIVE HUNDRED POUNDS OR TO IMPRISONMENT FOR THREE MONTHS, OR TO BOTH SUCH FINE AND IMPRISONMENT.

(2) Every person who for any purpose under this Act makes any declaration or statement which is erroneous is guilty of an offence against this Act.

19. Every person who fails or refuses to answer any question put to him for the purposes of this Act by any officer of Customs, Health, or Police, or who does not truly answer the same, is guilty of an offence against this Act.

Failure to answer questions.

20. Every person who commits any other breach of the provisions of this Act is guilty of an offence against this Act. Every person guilty of an offence against this Act shall be liable, where no other penalty is fixed by this Act, to a fine of fifty pounds.

General penalty for breach of provisions of Act.

21. On summary conviction for an offence a penalty shall be imposed in every case, and the minimum fine in any case shall be one-fourth of the maximum fine which can be imposed for that offence.

Minimum fines.

22. (1) Every person convicted of an offence shall, in addition to any penalty imposed pursuant to this Act, forfeit to His Majesty, by virtue of such conviction, all articles, if any, in respect of which the offence was committed and in the possession of such person.

Forfeiture of goods.

(2) Articles forfeited under the provisions of the last preceding subsection shall be sold, destroyed, or otherwise disposed of as the Minister of Customs or the Minister of Health, as the case may require, directs.

23. (1) In any proceedings under this Act against any person in which it is proved that he had in his possession any dangerous drug the onus of proving, where such proof would constitute an answer to the charge, that he came into possession thereof in a manner not prohibited by this Act shall lie on the person charged.

Onus of proof in certain cases. Cf. 1910, No. 30, s. 4

(2) In any such proceedings under this Act it shall not be necessary to prove that the dangerous drug was imported into New Zealand since the coming into force of this Act.

Chief officers of a company liable for offence by company.

24. Where a person convicted of an offence against this Act is a company, every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

Procedure in conduct of proceedings under Act.

Cf. 1913, No. 63, s. 242

25. (1) Notwithstanding anything to the contrary in the Justices of the Peace Act, 1927,—

(a) Any information for an offence against this Act may include two or more offences committed either by the same or different defendants :

(b) Any information may charge offences against this Act in the alternative.

(2) Every information for an offence against Part I of this Act shall be laid by a Collector of Customs, and every information for an offence against Part II shall be laid by a Medical Officer of Health.

Refer:

Additional Dangerous Drugs Gazetted:—  
Gaz. 1936 p. 2223:

Schedule.

1927 p. 51.

**Dihydrooxycodone** (Eucodal).  
**Dihydrocodone** (Dicodide).  
**Dihydromorphine** (Dilaudide).  
**Benzoylmorphine** and all other morphine esters.

manufacture, sale, or —  
or who utilize such drugs in the exercise of their profession  
or calling, to keep books in such form and manner and  
to furnish information with respect to such matters as may  
be prescribed ;

(b) The granting, renewal, and cancellation of licenses under this Act ;

(c) The issue by registered medical practitioners, registered dentists, and registered veterinary surgeons of prescriptions containing any dangerous drug ;

(d) The dispensing and compounding of dangerous drugs ;

(e) The packing, labelling, and carriage of dangerous drugs ; and

(f) Generally for controlling or restricting the importation, exportation, production, manufacture, sale, distribution, possession, purchase or procuring, and use of dangerous drugs, and prescribing fees and all matters which are required or permitted to be prescribed by this Act or with respect to which regulations are necessary or convenient for giving full effect to this Act.

(2) Regulations made under the powers hereby conferred may prescribe for any breach thereof a fine not exceeding one hundred pounds or imprisonment for a term not exceeding three months, or both such fine and imprisonment. The provisions of this Act relating to forfeitures following conviction for an offence shall apply in respect of convictions for breaches of the regulations.

Consequential amendments to Customs Act and Poisons Act.

27. (1) The Customs Act, 1913, is hereby amended by omitting from the First Schedule thereto the first two items thereof (relating to opium).

(2) The Second Schedule to the Poisons Act, 1908, is hereby amended by omitting from Part I thereof the word "Laudanum" and the word "Opium"; and by omitting from Part II thereof the words "All preparations of opium or poppies," and the words "Preparations of morphine."

28. (1) The Opium Act, 1908, and the Opium Amendment Act, 1910, are hereby repealed, but all penalties and forfeitures which have been incurred under those Acts may be enforced in the same manner as if this Act had not been passed.

Repeals and savings.

(2) All regulations made and in force at the commencement of this Act under the Acts hereby repealed, and the regulations made on the thirty-first day of July, nineteen hundred and twenty-two, and published in the *Gazette* of the third day of August in the same year, under the said Acts and under the Treaties of Peace Act, 1919, shall, so far as they are consistent with this Act, continue in full force and effect as if made under this Act, and shall enure for the purposes of this

1927 P. 50.

Sec. 25 (2).

Amdd by Sec. 2 (2)/1928/32 by omittg the words "and every information.....Health".

SCHEDULE.

continue.

DANGEROUS DRUGS.

RAW opium—that is, the spontaneously coagulated juice obtained from the capsules of the *Papaver somniferum* L. which has only been submitted to the manipulations necessary for packing and transport, whatever its content of morphine.

Prepared opium—that is, opium prepared for smoking, and including dross and any other residues remaining after opium has been smoked, and also including any other form of opium other than raw opium and medicinal opium.

Medicinal opium—that is, raw opium which has undergone the processes necessary to adapt it for medicinal use, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances.

Morphine—that is, the principal alkaloid of opium having the chemical formula  $C_{17}H_{19}NO_3$ .

Diacetylmorphine—that is, diacetylmorphine (diamorphine, heroin) having the chemical formula  $C_{21}H_{23}NO_5$ .

Coca-leaf—that is, the leaf of the *Erythroxylon coca* Lamarck and the *Erythroxylon novo-granatense* (Morris) Hieronymus and their varieties, belonging to the family of Erythroxylaceæ, and the leaf of other species of this genus from which it may be found possible to extract cocaine directly or obtain it by chemical transformation.

Crude cocaine—that is, any extract of the coca-leaf which can be used directly or indirectly for the manufacture of cocaine.

Cocaine—that is, methyl-benzoyl lævo-ecgonine ( $[\alpha]D_{20} = -16.4$  in 20 per cent. solution of chloroform) having the chemical formula  $C_{17}H_{21}NO_4$ , and including synthetic cocaine.

Ecgonine—that is, lævo-ecgonine ( $[\alpha]D_{20} = -45.6$  in 5 per cent. solution of water) having the chemical formula  $C_9H_{15}NO_3 \cdot H_2O$ , and including all the derivatives of lævo-ecgonine from which it may be recovered industrially.

Indian hemp—that is, the dried flowering or fruiting tops of the pistillate plant known as *Cannabis sativa* L. from which the resin has not been extracted, and including—

- (a) Resin obtained from Indian hemp;
- (b) Preparations of which the resin from Indian hemp forms the base; and
- (c) Extracts and tinctures of Indian hemp.

Any salt of morphine, diacetylmorphine, cocaine, or ecgonine.

Any preparation (including any of the so-called anti-opium remedies) containing more than one-fifth part per centum of morphine or more than one-tenth part per centum of cocaine or ecgonine.

Any preparation containing diacetylmorphine.