



KHYBER PAKHTUNKHWA

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**PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 4th September, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-48/2019/6179.—The Khyber Pakhtunkhwa Control of Narcotic Substances Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 27th August, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 2nd September, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA CONTROL OF NARCOTIC SUBSTANCES ACT, 2019. (KHYBER PAKHTUNKHWA ACT NO. XXXI OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 4th September, 2019).

AN
ACT

to provide for the control of narcotic substances, narcotic drugs and psychotropic substances in order to eliminate the evils of these substances, more effectively and more forcefully for socioeconomic well being of the people of the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the control of narcotic substances, narcotic drugs, psychotropic substances, and control substances and the production, processing, trafficking and transportation of such drugs and substances and for matters ancillary thereto and connected therewith;

It is hereby enacted as follows:

CHAPTER-I
PRELIMINARY

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

(a) “accused” means an accused, who is charged for the commission of an offence under this Act;

(b) “addict” means a person who is physically or mentally dependent or habitually uses narcotic substances;

(c) “asset” means any property owned, controlled or belonging to an accused, whether directly or indirectly, or in the name of relatives or associates whether within or outside the Province, for which they cannot reasonably account;

(d) “associate” in relation to an accused, means-

(i) any individual who is knowingly assisting narcotics related activities or has, at the relevant time, been residing in the residential premises, including out houses and servant-quarters of an accused for assisting the accused in narcotic activities; or

(ii) any individual who is or has, at the relevant time, been knowingly managing the affairs or keeping the accounts of an accused, relating to narcotics activities, or

(iii) any individual, who is or has been, at the relevant time, a member, partner or director of any association of persons, body of individuals, firm or a private limited company involved in dealing with narcotics business.; or

(iv) a trustee, knowingly involved in narcotics activities or trade of any trust created by an accused in order to cover up narcotics trade or activities; or

- (v) where the Special Court, for reasons to be recorded, considers that any property of an accused is held on his behalf by any other person knowingly involved in narcotics trade, activities or business and generating income for its further expansion, such other person;
- (e) "authorized officer" means,-
 - (i) an Officer of the Directorate General, not below the rank of Sub-Inspector, authorized by the Director; or
 - (ii) a Police officer/official not below the rank of Sub-Inspector, authorized by the Regional Police Officer;
- (f) "cannabis" means-
 - (i) cannabis resin (charas) that is the separated resin, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;
 - (ii) the flowering or fruiting tops of the cannabis plant (excluding the seed and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated or known; and
 - (iii) any mixture with or without natural materials of any of the above forms of cannabis or any drink prepared there from;
- (g) "cannabis plant" means any plant of the genus cannabis;
- (h) "coca bush" means the plant of any species of the genus erythroxylon;
- (i) "coca derivative" means-
 - (i) crude cocaine i.e. any extract of coca leaf which can be used, directly or indirectly, for the manufacture or production of cocaine;
 - (ii) ecgonine, that is, leavo-ecgonine having chemical formula $C_9H_{15}NO_3 \cdot H_2O$ and all chemical derivatives of leavo-ecgonine including benzoylecgonine from which it can be recovered;
 - (iii) cocaine, that is, methyl-benzoyl-leavo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$ and its salts; and

- (iv) all preparations containing more than 0.1 percent of cocaine;
- (j) “coca leaf” means-
 - (i) the leaf of the coca bush except a leaf from which all ecgonine, cocaine or any other ecgonine alkaloids have been removed; and
 - (ii) any mixture thereof, with or without neutral material, but does not include any preparation containing not more than 0.1 percent of cocaine;
- (k) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);
- (l) “controlled substance” means any substance which may be used for the production or manufacture of narcotic substances;
- (m) “conveyance” means a conveyance of any description whatsoever and includes, any aircraft, vehicle, vessel, railways or animal;
- (n) “Department” means the Excise, Taxation and Narcotics Control Department of Government;
- (o) “Director” means the Director, Narcotics Control Wing, established under sub-section (1) of section 3 of this Act;
- (p) “Director General” means the Director General of the Directorate General;
- (q) “Directorate General” means the Directorate General of the Excise, Taxation and Narcotics Control;
- (r) “foreign court” means a court of competent jurisdiction of a foreign country, recognized by the Federal Government from time to time;
- (s) “freezing” means prohibiting by an order made by the Special Court or an officer authorized under this Act the transfer, conversion, disposal or movement of any assets and includes the holding, controlling, assuming custody or managing any assets in pursuance of such order and, in the case of assets which are perishable, the disposal thereof;
- (t) “Government” means the Government of the Khyber Pakhtunkhwa;
- (u) “manufacture” in relation to narcotic substances, includes-
 - (i) all processes by which such drugs or substances may be obtained;

- (ii) refining of such drugs or substances;
- (iii) transformation of such drugs or substances; and
- (iv) making or preparing such drugs or substances;
- (v) "manufactured drug" includes-
 - (i) all coca derivatives, medicinal hemp, opium derivatives, cannabis in any form and any mixture of stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis sativa* L.), Acetic Anhydride; and
 - (ii) any other narcotic substance which Government may, by notification in the official Gazette declare to be manufactured drug or which the Federal Government, from time to time, declares to be a manufactured drug;
- (w) "medicinal hemp" means any extract or tincture of hemp;
- (x) "methamphetamine" means a highly addictive central nervous system stimulant that is synthetic or semi-synthetic compound $C_{10}H_{15}N$;
- (y) "Narcotics Analyst" means,-
 - (i) the Narcotics Analyst, appointed by Government under this Act; or
 - (ii) an examiner, expert and analyst, appointed under any other law for the time being in force,for the purpose of examination, testing and analysis of the narcotics substances;
- (z) "narcotic drug" means coca leaf, cannabis, heroin, opium, and all manufactured drugs;
- (aa) "narcotic substance" means and includes the narcotic drugs, psychotropic substances and controlled substances;
- (ab) "opium" means-
 - (i) poppy straw, that is to say, all parts of the poppy plant (*papaversomniferum* or any other species of *papaver*) after moving, other than the seeds;

- (ii) the spontaneously coagulated juice of capsules of poppy which has not been submitted to any manipulations other than those necessary for packing and transportation; and
 - (iii) any mixture, with or without natural materials, of any of the above forms of opium, but does not include any preparation containing not more than 0.2 percent of morphine;
- (ac) "opium derivative" includes-
- (i) medicinal opium, that is, opium which has undergone the process necessary to adapt it for medicinal use;
 - (ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;
 - (iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$ and its salts;
 - (iv) diacetylmorphine, that is, the semi-synthetic substance, also known as diamorphine or heroin, having the chemical formula $C_{21}H_{23}NO_5$ and its salts; and
 - (v) all preparations containing more than 0.2 percent of morphine or containing any diacetylmorphine;
- (ad) "opium poppy" means the plant of the species *papaversomniferum*;
- (ae) "Police Establishment" shall have the same meanings as given in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);
- (af) "poppy straw concentrate" means the material obtained after the poppy straw has been subjected to a process for the concentration of its alkaloids;
- (ag) "prescribed" means prescribed by rules;
- (ah) "property" includes-
- (i) all forms of property, whether corporeal or incorporeal, movable, tangible or intangible, real estate or personal property of every description;

- (ii) property used to commit, or to abet the commission of, an offence punishable under this Act;
 - (iii) all kinds of shares or interest in any corporate body, company, firm, business concern, society or fund, registered under the relevant law for the time being in force; and
 - (iv) all documents of title to land, goods or property wherever situated money or valuable security issued by Government of Pakistan;
- (ai) "Province" means the Province of the Khyber Pakhtunkhwa;
 - (aj) "psychotropic substance" means the substance, specified in the Schedule appended to this Act and such substances as Government may, by notification in the official Gazette, declare to be a psychotropic substance;
 - (ak) "Regional Police Officer" means the Regional Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);
 - (al) "relative" in relation to an accused, means any lineal descendant of the accused and includes any other person holding property for or on his behalf;
 - (am) "resident" means the bonafide resident of the Province;
 - (an) "rules" mean the rules made under this Act;
 - (ao) "Special Court" means the Special Court, established under section 22 of this Act;
 - (ap) "tracing" means the finding out the true nature, source, disposition, movement or ownership of assets and includes determining the movement or conversion of assets by any means; and
 - (aq) "transportation" means to bring in to the Province, bring out of the Province or transport within the Province any narcotics substances, otherwise than across National frontiers.

3. Narcotics Control Wing.---(1) There shall be Narcotics Control Wing, within the Directorate General, dealing with all matters concerning narcotics provided under this Act.

(2) The Narcotics Control Wing shall be headed by a Director under the supervision and control of the Director General, who shall be assisted by such officers and staff members of the Department, as Government may appoint from time to time.

