

(The Dangerous Drugs (Import, Export and Transhipment) Rules, 1938.)

No. 31

No. 31.- Under sub-section (2) of section 7, and sub-section (2) of section 8, of the Dangerous Drugs Act, 1930, the Governor of Burma makes the following rules:-

PART I.- Rules under sub-section (2) of section 7.

1. (1) The Rules in this Part may be called **the Dangerous Drugs (Import, Export and Transhipment) Rules, 1938.**
(2) In these rules, the expression "dangerous drug" does not include "prepared opium".
(3) They shall come into force on the 1st October 1938.
(4) On and from that date all rules previously made by whatever authority under the Opium Act, 1878, or the Burma Excise Act, 1917, relating to the Import, Export or Transhipment of any dangerous drug, shall cease to have effect, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced before that date.

Import and Export.

2. No dangerous drug shall be imported into or exported from Burma by air.
3. No person may import into or export from Burma any dangerous drug unless he can lawfully possess such drug.
4. No person may import into or export from Burma any dangerous drug without an authorisation issued under Rule 5 or Rule 9:

Provided that the Master or Agent of a vessel which does not carry a qualified medical practitioner on board may export dangerous drugs in that vessel without such an authorisation, provided that the Port Health Officer certifies that the dangerous drugs are necessary for the medicine chest of the ship.

5. (1) A person who can lawfully possess any dangerous drug and who desires to import such drug into Burma shall apply to the Collector of the District in which he resides or carries on business for an authorisation to import the drug and shall comply with all the regulations in force in the country from which the drug is to be imported.
(2) In his application he shall-
(a) give his name, address and business;

- (b) describe exactly the nature and quantity of the drug to be imported;
- (c) state the name, address and business of the person from whom the drug is to be imported;
- (d) state any special conditions to be observed (e.g., not to be imported through the post);
- (e) state, if possible, the Customs office through which the drug will be imported;
- (f) state, if possible, the route to be followed by the drug; and
- (g) period within which the import is to be effected.

NOTE.- The period allowed for the importation of drug shall not exceed six months.

He shall also make a declaration that the drug proposed to be imported is required solely for medicinal or scientific purposes and that the quantity of the drug is not, and will not be, in addition to the quantity he may possess at the time of import, in excess of the total quantity he can lawfully possess under these rules.

Form D.D. 1.

- (3) The Collector will forward such application direct to the Excise Commissioner with a recommendation whether it should be granted or not. The Excise Commissioner may, if he thinks fit, issue an authorisation in Form D.D. 1 appended to these rules.
- 6. (1) No dangerous drug shall ordinarily be imported by means of the post.
 - (2) The Excise Commissioner may, in special cases, authorise the importation of dangerous drugs by means of the post, provided that the regulations of the country from which the drugs are to be imported permit the export of such drugs by means of the post.

Provided further-

 - (a) that only the parcel post shall be used;
 - (b) that the parcel shall be insured; and
 - (c) that the parcel shall be accompanied by a declaration stating the names, addresses, and business of the consignee and consignor, the contents of the parcel in detail and the number and date of the authorisation covering the transmission.
 - (3) If the import is not authorised by means of the post, the authorisation shall be marked "Not available by post." If the import is authorised by means of the post, the authorisation shall be marked "Available by parcel post."
- 7. The import of diacetyl-morphine or its salts, or any preparations containing diacetyl-morphine or its salts, is prohibited, save at the Port of Rangoon.

8. Any consignments containing diacetyl-morphine or its salts, or any preparations containing diacetyl-morphine or its salts shall be sent to, and distributed by or under the authority of, the Excise Commissioner, Burma.

9. (1) A person who can lawfully possess any dangerous drug and who desires to export such drug shall apply to the Collector of the District in which he resides or carries on business for an authorisation to export the drug, shall produce an authorisation issued by the competent authority of the country to which the drug is to be exported permitting the importation of the drug into that country, and shall comply with all the regulations in force in the country to which the drug is to be exported.

(2) In his application he shall-

- (a) give his name, address and business;
- (b) describe exactly the nature and quantity of the drug to be exported;
- (c) state the name, address and business of the person to whom the drug is to be exported.

He shall also make a declaration that the drug proposed to be exported is required solely for medicinal or scientific purposes and that the importer has complied with all the regulations of the country of import in regard to the import of dangerous drugs.

Form D.D. 2.

(3) The Collector will forward such application direct to the Excise Commissioner with a recommendation whether it should be granted or not. The Excise Commissioner may, if he thinks fit, issue an authorisation in Form D.D. 2 appended to these rules.

10. In the case of import, the importer shall show distinctly in his account books the quantity of drugs received by him and the name, address and business of the consignor.

11. In the case of export, the exporter shall show distinctly in his account books the quantity of drugs exported by him and the name, address and business of the consignee.

12. The export of opium is prohibited.

13. The export of diacetyl-morphine or its salts, or any preparations containing diacetyl-morphine or its salts, is prohibited.

14. The import and export of coca leaf and hemp are prohibited.

Transhipment.

15. (1) No dangerous drug shall be transhipped at any port save with the permission of the Collector of Customs.

(2) The Collector of Customs shall not grant the permission referred to in sub-rule (1) save under the special orders of the Governor in each case unless-

(a) the country from which the drugs have been shipped and the country to which the drugs are consigned are signatories to and have ratified the Geneva Convention; and

(b) the drugs are covered by an export authorisation or a diversion certificate granted in accordance with Article 13 or Article 15 as the case may be of the said Convention by or under the authority of the Government of the country from which they have been shipped and such authorisation or certificate is produced for the inspection of the Collector of Customs in accordance with Article 15 of the said Convention.

PART II.- Rules under sub-section (2) of section 8.

16. (1) The rules in this Part may be called the Dangerous Drugs (Manufactured Drugs) Rules, 1938.

(2) In these rules, the expression "dangerous drug" does not include "prepared opium".

(3) They shall come into force on the 1st October 1938.

(4) On and from that date all rules previously made by whatever authority under the Opium Act, 1878, or the Burma Excise Act, 1917, relating to any manufactured drug, shall cease to have effect, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced before that date.

Definitions.

17. In these rules unless there is anything repugnant in the subject or context-

(1) "Act" means the Dangerous Drugs Act, 1930.

(2) "Approved practitioner" means-

(i) any person whose name is borne on the register of the Burma Medical Council or any person possessed of qualifications which render him eligible for registration under the Burma Medical Act; or

(ii) any person possessed of qualifications which render him eligible for registration as a Dentist under the Dentists' Act, 1878, and any Act of Parliament amending that Act; or

(iii) any person holding a veterinary diploma or certificate recognized by the Governor in this behalf.

(3) "Collector" includes any officer specially authorised by the Governor to exercise throughout Burma or any specified area therein all or any of the powers of the Collector under these rules.

(4) "Licensed chemist" means a person who has obtained a licence under these rules-

- (i) for the manufacture of medicinal opium or any preparation containing morphine, diacetyl-morphine or cocaine from materials which the maker is lawfully entitled to possess; and
- (ii) for the possession and sale on prescription of any manufactured drug.

(5) "Licensed dealer" means a person who has obtained a licence under these rules for the possession and sale otherwise than on prescription of any manufactured drug.

(6) "Ounce" means an ounce avoirdupois containing 437(1/2) grains.

(7) "Prescription" means a prescription given for the supply of any manufactured drug in accordance with these rules, by an approved practitioner or a person engaged in medical or dental practice and licensed by the Excise Commissioner, for the manufacture, possession and sale of manufactured drugs.

Transport.

18. (1) No person may transport any manufactured drug unless such person can lawfully possess such drug.

(2) No person lawfully possessing any manufactured drug may transport such drug without a permit issued under sub-rule (4) of this rule:

Provided that any person may, without a permit, carry any such drug as he is entitled to possess under these rules.

(3) A person, who lawfully possesses any manufactured drug and who desires to transport such drug, shall apply to the Collector of the District in which he resides or carries on business for a permit to transport the drug.

(4) In his application he shall-

(a) give his name, address and business;

(b) describe exactly the nature and quantity of the drug to be transported;

(c) state the name, address and business of the person to whom the drug is to be transported;

He shall also make a declaration that the drug proposed to be transported is required solely for medicinal or scientific purposes and that the consignee is lawfully entitled to possess the drug.

Form D.D. 3.

The Collector may, if he thinks fit, issue a permit in Form D.D. 3 appended to these rules.

19. The transport of manufactured drugs through the inland post is permitted subject to the following conditions:-

- (a) Only the parcel post shall be used.
- (b) The parcel shall be insured.

(c) The parcel shall be accompanied by a declaration stating the names, addresses and business of the consignor and the consignee, the contents of the parcel in detail, the number and date of the permit covering the transport and the numbers of the licences, if any, held by the parties.

20. The consignor and the consignee shall show distinctly in their account books the quantity of drugs transmitted and received, respectively, and the name, address and business of the consignee and the consignor, respectively.

21. The transport of coca leaf is prohibited.

Possession.

22. (1) An approved practitioner may possess manufactured drugs for the practice of his profession, subject to such limits as may be prescribed by the Excise Commissioner by any general or special order in this behalf. He must keep an accurate record of his dealings in manufactured drugs, except for drugs administered under his direct supervision and in his presence. The record must be available for inspection by any officer of the Excise or Police Department not below the rank of an Inspector.

(2) Subject to the conditions of his licence and subject to such limits as may be prescribed by the Excise Commissioner in this behalf, a person engaged in medical, or dental, or veterinary practice may possess manufactured drugs.

23. The Governor may exclude, from the privilege conferred by Rule 22 (1) of possessing manufactured drugs, any approved practitioner who in his opinion has abused such privilege.

24. (1) Any person may possess manufactured drugs which he has obtained for medicinal purposes on the prescription of, or from, an approved practitioner, or a person engaged in medical, or dental, or veterinary practice and licensed by the Excise Commissioner for the manufacture, possession and sale of manufactured drugs.

(2) The Master or Agent of a vessel which does not carry an approved practitioner on board may possess manufactured drugs, provided that the Port Health Officer certifies that the drugs are necessary for the medicine chest of the ship.

25. Subject to the conditions of his licence and subject to such limits as may be prescribed by the Excise Commissioner by any general or special order in this behalf, a licensed chemist may possess manufactured drugs.

26. Subject to the conditions of his licence and subject to such limits as may be prescribed by the Excise Commissioner by any general or special order in this behalf, a licensed dealer may possess manufactured drugs.

27. The Excise Commissioner may authorise any person to possess manufactured drugs for scientific purposes.

28. The possession of coca leaf is prohibited.

Sale.

29. Subject to the conditions of his licence, a person engaged in medical, or dental, or veterinary practice may sell manufactured drugs.

30. Subject to the conditions of his licence, a licensed chemist may sell manufactured drugs to any person on the prescription of an approved practitioner, or of a person engaged in medical, or dental, or veterinary practice and licensed by the Excise Commissioner for the manufacture, possession and sale of manufactured drugs, or to the Master or Agent of a vessel, on production of a certificate from the Port Health Officer that the drugs are required for the medicine chest of the vessel.

31. Subject to the conditions of his licence, a licensed dealer may sell manufactured drugs to another licensed dealer, to an approved practitioner, to a licensed chemist, to a person engaged in medical, or dental, or veterinary practice and licensed by the Excise Commissioner for the manufacture, possession and sale of manufactured drugs, to a person authorised to possess such drugs for scientific purposes, or to the Master or Agent of a vessel, on production of a certificate from the Port Health Officer that the drugs are required for the medicine chest of the vessel.

32. The sale of coca leaf is prohibited.

Manufacture.

33. An approved practitioner or a licensed chemist, or a person engaged in medical, or dental, or veterinary practice and licensed by the Excise Commissioner for the manufacture, possession and sale of manufactured drugs, may manufacture medicinal opium or any preparation containing morphine, diacetyl-morphine or cocaine from materials which the maker is lawfully entitled to possess.

Licence.

34. Licences issued under these rules shall be in the forms prescribed in the Appendix to these rules.

35. All licences issued under these rules shall ordinarily be for a period of one year from the 1st April to the 31st March. A licence issued during the currency of the year shall expire on the 31st March following.

Form D.D. 4.

36. The Excise Commissioner may grant a licence in Form D.D. 4 appended to these rules, to any person engaged in medical, or dental, or veterinary practice for the manufacture, possession and sale of manufactured drugs: Provided that no such licence shall be granted without previous consultation with the Inspector-General of Civil Hospitals, Burma, in the case of a person engaged in medical or dental practice, and without previous consultation with the Director of the Veterinary Services, Burma, in the case a person engaged in veterinary practice.

Form D.D. 5.

37. The Collector may grant to a chemist a licence in Form D.D. 5 appended to these rules, for the manufacture, possession and sale of manufactured drugs.

Form D.D. 6.

38. The Collector may grant to any person a licence in Form D.D. 6 appended to these rules, for the possession and sale of manufactured drugs.

Miscellaneous.

39. Permits or licences already issued and in force for the transport, possession, sale or manufacture of any manufactured drug shall be deemed to have been issued under these rules. Such permits or licences shall, in the absence of any provision to the contrary, expire on the 31st March 1939.

40. An authority who grants a licence may, for good and sufficient reason, suspend or cancel such licence.

41. (1) When a licence is suspended or cancelled all manufactured drugs in the possession of the person whose licence is suspended or cancelled shall forthwith be made over to the Collector. The Collector may sell such drugs and make over the sale proceeds to the person whose licence is suspended or cancelled.

(2) When an approved practitioner is excluded under Rule 23, from the privilege conferred by Rule 22 (1) all manufactured drugs in his possession shall forthwith be made over to the Collector, who may sell such drugs and make over the sale proceeds to the approved practitioner.

PART III.- Removal of Restrictions.

42. All preparations containing not more than 0.2 per cent of morphine or 0.1 per cent of cocaine and any preparation which the Governor may by notification in the Gazette made in pursuance of a finding under Article 8 of the Geneva Convention or in pursuance of any international convention supplementing the Geneva Convention, declare not to be a manufactured drug, may be imported, exported, transported, possessed, sold or manufactured, without restriction.

43. The provisions of these rules shall not apply to the importation, exportation, transport, possession or sale of Methyl Morphine (Codeine), Ethyl Morphine and their respective salts, unless the quantity involved in any transaction or possessed at any one time exceeds one pound.

PART IV.- Appeal and Revision.

44. Appeals shall lie from orders passed under these rules as follows:-

- (1) To the Collector from an order of an Excise Officer subordinate to him;
- (2) To the Commissioner of the Division from an order of the Collector, except of the Collector, Rangoon Town;
- (3) To the Excise Commissioner from an order of the Collector, Rangoon Town;
- (4) To the Governor from an order of the Commissioner of the Division or of the Excise Commissioner:
Provided that when an original order is confirmed on first appeal a further appeal shall not lie.

45. The period of limitation of an appeal under Rule 44 shall run from the date of the making of the order appealed from and shall be as follows:-

(1)	When the appeal lies to the Collector			30days.
(2)	When the appeal lies to the Commissioner of the Division or the Excise Commissioner	
				60days.
(3)	When the appeal lies to the Governor			90days.

46. The Governor may revise an order of the Collector, the Commissioner of the Division, or the Excise Commissioner, under these rules.

47. A petition of appeal from, or an application for revision of, an order must be accompanied by an authenticated copy of the order, or the omission to produce such copy must be explained.

48. Any officer, who has passed an order under these rules other than an order in the course of a judicial proceeding, may, of his own motion, or on the application of any person concerned, cancel or modify such order.

----- Footnote -----

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----- Attachment -----

- [ATTACH LIST 1] 01 Appendix-Forms. FORM D.D. 1(Rule 5.) MODEL FORM OF IMPORT CERTIFICATE.
- [ATTACH LIST 2] 02 FORM D.D. 2. (Rule 9.) MODEL FORM OF EXPORT AUTHORISATION.
- [ATTACH LIST 3] 03 FORM D.D. 3. PERMIT FOR THE TRANSPORT OF MANUFACTURED DRUGS. (Rule 18.)
- [ATTACH LIST 4] 04 FORM D.D. 4.LICENCE FOR THE MANUFACTURE, POSSESSION AND SALE OF MANUFACTURED DRUGS BY A PERSON ENGAGED IN MEDICAL OR DENTAL OR VETERINARY PRACTICE. (Rule 36.)
- [ATTACH LIST 5] 05 FORM D.D. 5.LICENCE FOR THE MANUFACTURE, POSSESSION AND SALE OF MANUFACTURED DRUGS BY A LICENSED CHEMIST.(Rule 37.)
- [ATTACH LIST 6] 06 (To be printed on the reverse.) Form of account to be maintained by a Licensed Chemist.
- [ATTACH LIST 7] 07 FORM D.D. 6.LICENCE FOR THE POSSESSION AND SALE OF MANUFACTURED DRUGS BY A LICENSED DEALER.
- [ATTACH LIST 8] 08 (To be printed on the reverse.) Form of account to be maintained by a Licensed Dealer.