

THE DRUGS AND COSMETICS ACT, 1940

ARRANGEMENT OF SECTIONS

CHAPTER I

INTRODUCTORY

SECTIONS

1. Short title, extent and commencement.
2. Application of other laws not barred.
3. Definitions.
- 3A. Construction of references to any law not in force or any functionary not in existence in the State of Jammu and Kashmir.
4. Presumption as to poisonous substances.

CHAPTER II

THE DRUGS TECHNICAL ADVISORY BOARD, THE CENTRAL DRUGS LABORATORY AND THE DRUGS CONSULTATIVE COMMITTEE

5. The Drugs Technical Advisory Board.
6. The Central Drugs Laboratory.
7. The Drugs Consultative Committee.
- 7A. Sections 5 and 7 not to apply to Ayurvedic, Siddha or Unani drugs.

CHAPTER III

IMPORT OF DRUGS AND COSMETICS

8. Standards of quality.
9. Misbranded drugs.
- 9A. Adulterated drugs.
- 9B. Spurious drugs.
- 9C. Misbranded cosmetics.
- 9D. Spurious cosmetics.
10. Prohibition of import of certain drugs or cosmetics.
- 10A. Power of Central Government to prohibit import of drugs and cosmetics in public interest.
11. Application of law relating to sea customs and powers of Customs officers.
12. Power of Central Government to make rules.
13. Offences.
14. Confiscation.
15. Jurisdiction.

CHAPTER IV

MANUFACTURE, SALE AND DISTRIBUTION OF DRUGS AND COSMETICS

SECTIONS

16. Standards of quality.
17. Misbranded drugs.
- 17A. Adulterated drugs.
- 17B. Spurious drugs.
- 17C. Misbranded cosmetics.
- 17D. Spurious cosmetics.
- 17E. Adulterated cosmetics.
18. Prohibition of manufacture and sale of certain drugs and cosmetics.
- 18A. Disclosure of the name of the manufacturer, etc.
- 18B. Maintenance of records and furnishing of information.
19. Pleas.
20. Government Analysts.
21. Inspectors.
22. Powers of Inspectors.
23. Procedure of Inspectors.
24. Persons bound to disclose place where drugs or cosmetics are manufactured or kept.
25. Reports of Government Analysts.
26. Purchaser of drug or cosmetic enabled to obtain test or analysis.
- 26A. Powers of Central Government to regulate, restrict or prohibit manufacture, etc., of drug and cosmetic in public interest.
- 26B. Powers of Central Government to regulate or restrict, manufacture, etc., of drug in public interest.
27. Penalty for manufacture, sale, etc., of drugs in contravention of this Chapter.
- 27A. Penalty for manufacture, sale, etc., of cosmetics in contravention of this Chapter.
28. Penalty for non-disclosure of the name of the manufacturer, etc.
- 28A. Penalty for not keeping documents, etc., and for non-disclosure of information.
- 28B. Penalty for manufacture, etc., of drugs or cosmetics in contravention of section 26A.
29. Penalty for use of Government Analyst's report for advertising.
30. Penalty for subsequent offences.
31. Confiscation.
- 31A. Application of provisions to Government departments.
32. Cognizance of offences.
- 32A. Power of Court to implead the manufacturer, etc.
- 32B. Compounding of certain offences.
33. Power of Central Government to make rules.
- 33A. Chapter not to apply to Ayurvedic, Siddha or Unani drugs.

CHAPTER IVA

PROVISIONS RELATING TO AYURVEDIC, SIDDHA AND UNANI DRUGS

- 33B. Application of Chapter IVA.
- 33C. Ayurvedic and Unani Drugs Technical Advisory Board.
- 33D. The Ayurvedic, Siddha and Unani Drugs Consultative Committee.

SECTIONS

- 33E. Misbranded drugs.
- 33EE. Adulterated drugs.
- 33EEA. Spurious drugs.
- 33EEB. Regulation of manufacture for sale of Ayurvedic, Siddha and Unani drugs.
- 33EEC. Prohibition of manufacture and sale of certain Ayurvedic, Siddha and Unani drugs.
- 33EED. Power of Central Government to prohibit manufacture, etc., of Ayurvedic, Siddha or Unani drugs in public interest.
- 33F. Government Analysts.
- 33G. Inspectors.
- 33H. Application of provisions of sections 22, 23, 24 and 25.
- 33-I. Penalty for manufacture, sale, etc., of Ayurvedic. Siddha or Unani drug in contravention of this Chapter.
- 33J. Penalty for subsequent offences.
- 33K. Confiscation.
- 33KA. Disclosure of name of manufacturer, etc.
- 33KB. Maintenance of records and furnishing of information.
- 33L. Application of provisions to Government departments.
- 33M. Cognizance of offences.
- 33N. Power of Central Government to make rules.
- 33-O. Power to amend First Schedule.

CHAPTER V

MISCELLANEOUS

- 33P. Power to give directions.
- 34. Offences by companies.
- 34A. Offences by Government departments.
- 34AA. Penalty for vexatious search or seizure.
- 35. Publication of sentences passed under this Act.
- 36. Magistrate's power to impose enhanced penalties.
- 36A. Certain offences to be tried summarily.
- 36AB. Special Courts.
- 36AC. Offences to be cognizable and non-bailable in certain cases.
- 36AD. Application of Code of Criminal Procedure, 1973 to proceedings before special Court.
- 36AE. Appeal and revision.
- 37. Protection of action taken in good faith.
- 38. Rules to be laid before Parliament.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE DRUGS AND COSMETICS ACT, 1940

ACT NO. 23 OF 1940¹

[10th April, 1940.]

An Act to regulate the import, manufacture, distribution and sale of drugs ²[and cosmetics].

WHEREAS it is expedient to regulate the ³[import, manufacture, distribution and sale] of drugs ²[and cosmetics];

AND WHEREAS the Legislatures of all the Provinces have passed resolutions in terms of section 103 of the Government of India Act, 1935 (26 Geo. 5, c. 2), in relation to such of the above-mentioned matters and matters ancillary thereto as are enumerated in List II of the Seventh Schedule to the said Act:

It is hereby enacted as follows: —

CHAPTER I

INTRODUCTORY

1. Short title, extent and commencement. —(1) This Act may be called the Drugs ⁴[and Cosmetics] Act, 1940.

(2) It extends to the whole of India ⁵* * *.

(3) It shall come into force at once; but Chapter III shall take effect only from such date⁶ as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and Chapter IV shall take effect in a particular State only from such date⁶ as the State Government may, by like notification, appoint in this behalf :

⁷[Provided that in relation to the State of Jammu and Kashmir*, Chapter III shall take effect only from such date⁸ after the commencement of the Drugs and Cosmetics (Amendment) Act, 1972 (19 of 1972), as the Central Government may, by notification in the Official Gazette, appoint in this behalf.]

1. The Act has been applied to all the partially excluded areas in the State of Orissa, *see* Orissa Government notification No. 3358-LSG., dated the 25th August, 1941.

2. Ins. by Act 21 of 1962, s.2 (w.e.f. 27-7-1964).

3. Subs. by the A.O. 1950, for certain words.

4. Ins. by Act 21 of 1962, s. 3 (w.e.f. 27-7-1964).

5. The words "except the State of Jammu and Kashmir" omitted by Act 19 of 1972, s. 2.

6. 1st April, 1947; *see* notification No. F. 28(10) (3) 45H(I), dated the 2nd September, 1946, Gazette of India, 1946, Pt. I, p. 1349.

Ch. IV came into force in the States of Delhi, Ajmer and Coorg on the 1st April, 1947, *see ibid.*, Chs. III and IV came into force in the States of H.P., Bilaspur, Kutch, Bhopal, Tripura, Vindhya Pradesh and Manipur on the 1st April, 1953, *vide* notification No. S.R.O. 663, dated the 30th March, 1953, Gazette of India, Pt II, Sec. 3, p. 451.

Ch. IV came into force in the Union territory of Dadra and Nagar Haveli w.e.f. 1st August, 1968, *see* notification. No. ADM/Law/117(74), dated the 20th July, 1968, Gazette of India, PT. III, Sec. 3, p. 128.

The Act is extended to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I; to Pondicherry by Reg. 7 of 1963, s. 3 and the Sch. I; to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and the schedule (w.e.f. 1-8-1965) and to the whole of the Union territory of Lakshadweep by Reg. 8 of 1965, s. 3 and Sch.

7. Added by Act 19 of 1972, s. 2.

8. 24th August, 1974, *vide* notification. No. S.O. 2185, dated the 9th August, 1974, Gazette of India, 1974, Pt. II, Sec. 3 (ii), p. 2331.

*. *Vide* Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

2. Application of other laws not barred. —The provisions of this Act shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 (2 of 1930), and any other law for the time being in force.

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

¹[(a) “²[Ayurvedic, Siddha or Unani] drug” includes all medicines intended for internal or external use for or in the diagnosis, treatment, mitigation or prevention of ³[disease or disorder in human beings or animals, and manufactured] exclusively in accordance with the formulae described in, the authoritative books of ³[Ayurvedic, Siddha and Unani Tibb system of medicine], specified in the First Schedule;]

⁴[(aa) “the Board” means—

(i) in relation to ²[Ayurvedic, Siddha or Unani] drug, the ³[Ayurvedic, Siddha and Unani Drugs Technical Advisory Board] constituted under section 33C; and

(ii) in relation to any other drug or cosmetic, the Drugs Technical Advisory Board constituted under section 5;]

⁵[⁶[(aaa)] “cosmetic” means any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic ⁷* * *;]

⁸[(b) “drug” includes—

⁹[(i) all medicines for internal or external use of human beings or animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;]

(ii) such substances (other than food) intended to affect the structure or any function of the human body or intended to be used for the destruction of ¹⁰[vermin] or insects which cause disease in human beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette;]

¹¹[(iii) all substances intended for use as components of a drug including empty gelatin capsules; and

(iv) such devices intended for internal or external use in the diagnosis, treatment, mitigation or prevention of disease or disorder in human beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette, after consultation with the Board;]

1. Ins. by Act 13 of 1964, s. 2 (w.e.f. 15-9-1964).

2. Subs. by Act 68 of 1982, s. 2, for certain words (w.e.f. 1-2-1983).

3. Subs. by s. 3, *ibid.*, for certain words (w.e.f. 1-2-1983).

4. Clause (a) was re-lettered as cl. (aa) and subs. by Act 13 of 1964, s. 2 (w.e.f. 15-9-1964).

5. Ins. by Act 21 of 1962, s. 4 (w.e.f. 27-7-1964).

6. Clause (aa) re-lettered by Act 13 of 1964, s. 2 (w.e.f. 15-9-1964).

7. Certain words omitted by Act 68 of 1982, s.3 (w.e.f. 1-2-1983).

8. Subs. by Act 11 of 1955, s. 2, for cl. (b).

9. Subs. by Act 68 of 1982, s. 3, for sub-clause (i) (w.e.f. 1-2-1983).

10. Subs. by Act 13 of 1964, s. 2 for “vermins” (w.e.f. 15-9-1964).

11. Ins. by Act 68 of 1982, s. 3 (w.e.f. 1-2-1983).