

DRUGS (CONTROL) ACT, 1950

26 of 1950

[7th April, 1950]

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STATEMENT OF OBJECTS AND REASONS "The Drug(Control) Ordinance, 1949 (No. 26 of 1949), was promulgated on 3-10-1949 in order to ensure that certain essential imported drugs and medicines were sold at reasonable prices in the Chief Commissioner's Provinces. Similar Ordinances were issued by all the Provinces. The necessity for continuing price control of these essential drugs continues. Some Provinces have already replaced

their Ordinances by Acts and others are expected to do so. This Bill is intended to replace the Central Ordinance. " - Gazette of India, 1950, Pt. V, p. 154.

1. Short title and extent :-

(1) This Act may be called The Drugs (Control) Act, 1950.

(2) It extends to ¹ [the territories which, immediately before the 1st November, 1956, were comprised in Part C States].

1. Substituted for "all Part C States" by 3 A.L.O., 1956.

2. Interpretation :-

(1) In this Act, unless the context otherwise requires,-

(a) "dealer" means a person carrying on, either personally or through any other person, the business of selling any drugs, whether wholesale or retail;

(b) "drug" means any drug as defined in clause (b) of S.3 of the Drugs Act, 1949, in respect of which a declaration has been made under section 3 ;

(c) "offer for sale" includes a reference to an intimation by a person of the price proposed by him for a sale of any drug, made by the publication of a price list, by exposing the drug for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever;

(d) "producer" includes a manufacturer.

¹ [(1A) As from the 1st November, 1956, any reference in this Act to the Central Government or the Chief Commissioner shall, in relation to the territories which, immediately before the 1st November 1956, were comprised in the Part C State of Ajmer or Bhopal and Vindhya Pradesh or Coorg or Kutch, be construed as a reference to the State Government of Rajasthan or Madhya Pradesh or Mysore or Bombay, as the case may be.]

(2) A drug shall be deemed to be in the possession of a person -

(i) when it is held on behalf of that person by another person or when held by that person on behalf of another person;

(ii) notwithstanding that it is mortgaged to another person.

1. Inserted by 3 A.L.O., 1956.

3. Drugs to which this Act applies :-

The Central Government may, by notification ¹ in the Official Gazette, declare any drug to be a drug to which this Act applies.

1. See S. R. O. 1379, dated the 4th August, 1952, Gazette of India, Pt. II, S. 3, page 1216.

4. Fixing of maximum prices and maximum quantities which may be held or sold :-

(1) The Chief Commissioner may, by notification in the Official Gazette, fix in respect of any drug -

(a) the maximum price or rate which may be charged by a dealer or producer;

(b) the maximum quantity which may at any one time be possessed by a dealer or producer;

(c) the maximum quantity which may in any one transaction be sold to any person.

(2) The prices or rates and the quantities fixed in respect of any drug under this section may be different in different localities or for different classes of dealers or producers.

5. Restrictions on sale, etc., where maximum is fixed under section 4 :-

No dealer or producer shall -

(a) sell, agree to sell, offer for sale or otherwise dispose of, to any person any drug for a price or at a rate exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 4 ;

(b) have in his possession at any one time a quantity of any drug exceeding the maximum fixed by notification under clause (b) of sub-sec. (1) of section 4 ; or

(c) sell, agree to sell or offer for sale to any person in any one transaction a quantity of any drug exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 4 .

6. General limitation on quantity which may be possessed at any one time :-

(1) No person shall have in his possession at any one time a

greater quantity of any drug to which this section applies than the quantity necessary for his reasonable needs.

(2) This section shall apply only to such drugs as the Chief Commissioner may, by order published in the Official Gazette, specify for the purpose: Provided that nothing contained in this section shall apply to a dealer or producer in respect of any drug sold or produced by him.

7. Duty to declare possession of excess stocks :-

Any person having in his possession a quantity of any drug exceeding that permitted by or under this Act shall forthwith report the fact to the Chief Commissioner or other officer empowered in this behalf by the Chief Commissioner, and shall take such action as to the storage, distribution or disposal of the excess quantity as the Chief Commissioner may direct.

8. Refusal to sell :-

No dealer or producer shall, unless previously authorized to do so by the Chief Commissioner, without sufficient cause refuse to sell to any person any drug within the limits as to quantity, if any, imposed by this Act.

Explanation.- The possibility or expectation of obtaining a higher price for a drug at a later date shall not be deemed to be a sufficient cause for the purpose of this section.

9. Cash memorandum to be given of certain sales :-

(1) Every dealer or producer when selling any drug for cash shall, if the amount of the purchase is five rupees or more, in all cases, and, if the amount of the purchase is less than five rupees, when so requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(2) The Chief Commissioner may, by notification in the Official Gazette, prescribe the particulars to be contained in any such cash memorandum.

(3) The Chief Commissioner may, by notification in the Official Gazette, exempt specified areas, classes of dealers or producers, or classes of drugs from the operation of this section.

10. Marking of prices and exhibiting list of prices and stocks :-

(1) The Chief Commissioner may direct dealers or producers in general, or any dealer or producer in particular, to mark any drug exposed or intended for sale with the sale prices or to exhibit on the premises a price list of drugs held for sale and the quantities of such drugs in his possession, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

(2) No dealer shall destroy, efface or alter or cause to be destroyed, effaced or altered any label or mark affixed to a drug and indicating the price marked by a producer.

11. Obligation to state price separately on composite offer
:-

Where a dealer or producer makes an offer to enter into a transaction for a consideration to be given as a whole in respect both of a sale of any drug and of some other matter, the dealer or producer making the offer shall state in writing the price which he assigns to that drug, if he is required to do so by any person to whom the offer is made, and the offer shall be deemed for the purposes of this Act to be an offer to sell that drug at the price so stated.

12. Prohibition or regulation of the disposal of drugs :-

If in the opinion of the Chief Commissioner it is necessary or expedient so to do, he may, by order in writing-

(a) prohibit the disposal of any drug except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of any drug to any such dealer or class of dealers and in such quantities as may be specified in the order; and make such further orders as appear to him to be necessary or expedient in connection with any order issued under this section.

13. Penalties :-

(1) Whoever contravenes any of the provisions of this Act or fails to comply with any direction made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) A Court convicting any person of an offence punishable under this Act may order that the whole or any part of the stock of drugs in respect of which the offence was committed shall be forfeited to

the Government.

(3) It shall be a defence for a person charged with a contravention of any of the provisions of this section to prove that, in relation to the matter in respect of which he is charged he acted in the course of his employment as a servant or agent of another person on the instructions of his employer or of some other specified person.

14. Offences by corporations :-

Where a person committing an offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, every director, manager, secretary, agent or other officer or person concerned with the management thereof, shall, unless he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

15. Procedure :-

(1) No person other than a police officer of or above the rank of an Inspector of Police or an officer not below the rank of an Inspector of Police authorized in this behalf by the Central Government by notification in the Official Gazette, shall investigate any offence under this Act.

(2) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the District Magistrate.

16. Powers of search and seizure :-

Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being committed, and take possession of any stock of drugs in respect of which offence has been or is being committed and the provisions of the Code Of Criminal Procedure, 1898, shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

17. Power to make rules :-

(1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the

foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the maintenance by dealers and producers generally, or by any dealer or producer in particular, of records of all sale and purchase transactions made by them;

(b) the furnishing of any such information as may be required with respect to the business carried on by any dealer or producer;

(c) the inspection of any books of account or other documents belonging to or under the control of any dealer or producer.

18. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

19. Saving of other laws :-

The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force regulating any of the matters dealt with in this Act.

20. Repeal of Ordinance 26 of 1949 :-

Repealed by the Repealing and Amending Act, 1957 (36 of 1957), S. 2 and Schedule 1.]