

Rep. by Act 52 of 1964, S. 2 + Sch. I (w.e.f. 28.12.64).

THE DRUGS (AMENDMENT) ACT, 1960

No. 35 OF 1960

[15th September, 1960]

An Act further to amend the Drugs Act, 1940.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Drugs (Amendment) Act, 1960. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 3 of the Drugs Act, 1940 (hereinafter referred to as the principal Act),— Amendment of section 3.

(i) in clause (b), in sub-clause (i), for the words "in the treatment", the words "in the diagnosis, treatment" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) 'Government Analyst' means a Government Analyst appointed by the Central Government or a State Government under section 20;"

(iii) the existing clause (bb) shall be re-lettered as clause (d) and after clause (d) as so re-lettered, the following clause shall be inserted, namely:—

"(e) 'Inspector' means an Inspector appointed by the Central Government or a State Government under section 21;" and

(iv) the existing clauses (bbb), (c), (d) and (e) shall be re-lettered respectively as (f), (g), (h) and (i).

3. In section 19 of the principal Act, in sub-section (2), in clause (aa), for the words, brackets and letter "in clause (d)", the words, brackets and letter "in clause (h)" shall be substituted. Amendment of section 19.

¹16th March, 1961, vide Notification No. S. O. 593, dt. 16-3-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 233.

Substitution
of new sec-
tions for sec-
tions 20 and
21.

4. For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

Government
Analysts.

“20. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts for such areas in the State and in respect of such drugs or class of drugs as may be specified in the notification.

(2) The Central Government may also, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts in respect of such drugs or class of drugs as may be specified in the notification.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), neither the Central Government nor a State Government shall appoint as a Government Analyst any official not serving under it without the previous consent of the Government under which he is serving.

Inspectors.

21. (1) The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Inspectors for such areas as may be assigned to them by the Central Government or the State Government, as the case may be.

(2) The powers which may be exercised by an Inspector and the duties which may be performed by him, the drugs or class of drugs in relation to which and the conditions, limitations or restrictions subject to which, such powers and duties may be exercised or performed shall be such as may be prescribed.

(3) No person who has any financial interest in the manufacture, import or sale of drugs shall be appointed to be an Inspector under this section.

(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and 45 of 1860. shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.”

Amendment
of section
22.

5. In section 22 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(cc) examine any record, register, document or any other material object found in any place mentioned in clause (c), and

seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;"

6. In section 23 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment
of section
23.

"(6) Where an Inspector seizes any record, register, document or any other material object under clause (cc) of sub-section (1) of section 22, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof."

7. For section 27 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 27.

"27. Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale or distributes any drug,—

Penalty for
manufacture,
sale, etc., of
drugs in con-
travention of
this Chapter.

(a) deemed to be misbranded under clause (a), clause (b), clause (c), clause (d), clause (f) or clause (g) of section 17 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year;

(b) other than a drug referred to in clause (a) in contravention of any of the provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment which may extend to three years, or with fine, or with both."

8. In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
30.

"(1) Whoever, having been convicted of an offence—

(a) under clause (a) of section 27 is again convicted of an offence under that clause, shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to five years and shall also be liable to fine:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of less than two years;

(b) under clause (b) of section 27, is again convicted of an offence under that clause shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both."

Amendment
of section
31.

9. Section 31 of the principal Act shall be re-numbered as sub-section (1) of that section, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Without prejudice to the provisions contained in sub-section (1), any drug in respect of which the Court is satisfied, on the application of an Inspector or otherwise and after such inquiry as may be necessary, that the drug is not of standard quality or is a misbranded drug, shall be liable to confiscation."

Amendment
of section
33.

10. In section 33 of the principal Act,—

(i) in sub-section (2), for clause (n), the following clause shall be substituted, namely:—

"(n) prescribe the powers and duties of Inspectors and the drugs or class of drugs in relation to which and the conditions, limitations or restrictions subject to which, such powers and duties may be exercised or performed;"

(ii) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

11. In Chapter V of the principal Act, before section 34, the following section shall be inserted, namely:—

Insertion of
new section
33A.

“33A. The Central Government may give such directions to any State Government as may appear to the Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule or order made thereunder.”

Power to
give direc-
tions.