

# **The Narcotic and Psychotropic Substance Act and Rules, 1985**

BY

Sohansinh Vaghela  
SIPS, Gandhinagar

# Contents

- History, Introduction, Definitions
- Authorities and Officers
- The Narcotic and Psychotropic Substances Consultative Committee
- Prohibition, control and Regulation
- Power of Central Govt. to Permit, Control and Regulate
- Power of State Govt. to Permit, Control and Regulate
- Offences and Penalties
- Conclusion
- References

# Introduction

- NDPS Act, as it is known popularly, is meant to face a very important social problem: drug trafficking. This is also one of the special Acts that has come before the courts very frequently and having a large number of conflicting judgments confusing the general public.

# Evolution of Law

- India had no legislation regarding narcotics until 1985. Cannabis smoking in India has been known since at least 2000 BC and is first mentioned in the *Atharvaveda*, which dates back a few hundred years BC.
- The Opium Act of 1857 was revised first in 1878.
- In 1950, the Opium Act of 1878 was revised as the Opium and Revenue Laws Act 1950.
- On 16th September 1985, the above mentioned Acts were repealed and Act 61 of NDPSA 1985 was enforced.

# Objectives

- To consolidate and amend the existing law relating to Narcotic Drug.
- To make stringent provision for control and regulation of operations relating to Narcotic Drugs and psychotropic substances.
- To considerably enhance penalties particularly for trafficking offences.
- To make provisions for implementations of International Convention relating to Narcotic Drugs and Psychotropic substances to which India is party.

# Definition

**“Cannabis (hemp)”** means-

- a) Charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin know as hashish oil or liquid hashish;
- b) Ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be know or designated; and
- c) any mixture, with or without any neutral material, of any of the above forms of cannabis or cannabis or an drink prepared there from;

# Definition

**"coca derivative"** means-

- a) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;
- b) ecgonine and all the derivatives of ecgonine from which it can be recovered;
- c) cocaine, that is, methyl ester of benzoyl-ecgonine and its salts; and
- d) all preparations containing more than 0.1 per cent. Of cocaine

# Definition

“**manufacture**”, in relation to narcotic drugs or psychotropic substances, includes-

- a) all processes other than production by which such drugs or substances may be obtained;
- b) refining or transformation of such drugs or substances;
- c) making of preparation (otherwise than in a pharmacy on prescription) with or containing such drugs or substances;



# Definition

"manufactured drug" means-

- a) all coca derivatives, medicinal cannabis, opium derivative and poppy straw concentrate;
- b) any other narcotic substance or preparation which the Central Government may, having regard to the available information as to its nature or to a decision, if any, under any International Convention, by notification in the Official Gazette, declare to be a manufactured drug;

# Definition

**“medicinal cannabis”**. that is, medicinal hemp, means any extract or tincture of cannabis (hemp);

a) Narcotics Commissioner" means the Narcotics Commissioner appointed under section 5;

b) narcotic drug" means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured drugs;

**“opium”** means-

a) the coagulated juice of the opium poppy; and

b) any mixture, with or without any neutral material, of the coagulated juice of the opium poppy, but does not include any preparation containing not more than 0.2 per cent. of morphine;

# Definition

**“opium derivative”** means

1. Medicinal opium
2. Prepared opium
3. Phenanthrene alkaloids such as morphine, codeine, thebaine and their salts
4. Diacetyl morphine (heroin) and its salts
5. All preparation containing more than 0.2% of morphine or any amount of diacetyl morphine

# Definition

"opium poppy" means-

- a) the plant of the species *Papaver somniferum* L.; and
- b) the plant of any other species of *Papaver* from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act;

# Definition

**“Poppy straw”** means

- all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted there from;

**“Psychotropic substance”** means

- any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule;

# Definition

"Controlled substance" means

- any substance which the Central Government may, having regard to the available information as to its possible use in the production or manufacture of narcotic drugs or psychotropic substances or to the provisions of any International Convention, by notification in the Official Gazette, declare to be a controlled substances.

# Definition

"illicit traffic", in relation to narcotic drugs and psychotropic substances, means-

- a) cultivating any coca plant or gathering any portion of coca plant;
- b) cultivating the opium poppy or any cannabis plant;
- c) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter- State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;
- d) dealing in any activities in narcotic drugs or psychotropic substances other

# Definition

"illicit traffic", in relation to narcotic drugs and psychotropic substances, means-

- e) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv), other than those permitted under this Act, or any rule or order made or any condition of any license, term or authorization issued, thereunder, and includes-
  - i. *financing, directly or indirectly, any of the aforementioned activities;*
  - ii. *abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and*
  - iii. *harboring persons engaged in any of the aforementioned activities;]than those referred to in sub-clauses (i) to (iii); or*



# Authority & Officers

- A. **Central Government to take measures for preventing and combating abuse of and illicit traffic in narcotic drugs, etc.**
- Co-ordination of actions by various officers, State Govt. and other authorities under this act, or under any other law for time being in force relating to the enforcement of provision of this act.
  - Obligations under the International convention.
  - Assistance to concerned authorities in foreign countries and concerned international organization regarding prevention and suppression of illicit traffic in narcotic drugs & psychotropic substances.
  - Identification, treatment, education, after care, rehabilitation & social re-  
interaction of addicts
  - Such other matters for effective implementation of this act and preventing & combating the abuse of narcotic drugs and psychotropic substances and illicit traffic therein.

# Authority & Officers

## B. Officers of Central Govt.

- Under the provision of this act, the Central Govt. may appoint Narcotic Commissioner & such other officers as it thinks fit.
- Performs the function relating to:
  1. *Supervision of cultivation of opium poppy*
  2. *Production of opium*
  3. *Other functions as may be entrusted to him Central Govt.*

# **The Narcotic Drugs and Psychotropic Substances Consultative Committee.**

- The Central Government may constitute, by notification in the Official Gazette, an advisory committee to be called "The Narcotic Drugs and Psychotropic Substances Consultative Committee" (hereafter in this section referred to as the Committee) to advise the Central Government on such matters relating to the administration of this Act as are referred to it by that Government from time to time.

# Prohibition, Control And Regulation

1. Prohibition of certain operations as per sec. 8:

No person shall-

- a) Cultivate any coca plant or gather any portion of coca plant; or
- b) Cultivate the opium poppy or any cannabis plant; or
- c) Produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State export inter-State import into India, export from India or tranship any narcotic drug or psychotropic substance, except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act or the rules or orders made thereunder .

# **Power of Central Government to permit, control and regulate**

- Subject to the provisions of section 8, the Central Government may, by rules-
  1. Permit and regulate-
    - a) The cultivation, or gathering of any portion (such cultivation or gathering being only on account of the Central Government) of coca plant, or the production, possession, sale, purchase, transport, import inter-State, export inter-State, use or consumption of coca leaves;
    - b) The cultivation (such cultivation being only on account of Central Government) of the opium poppy;

# Power of Central Government to permit, control and regulate

- Subject to the provisions of section 8, the Central Government may, by rules-
  - c) The production and manufacture of opium and production of poppy straw;
  - d) The sale of opium and opium derivatives from the Central Government factories for export from India or sale to State Government or to manufacturing chemists;
  - e) The manufacture of manufactured drugs (other than prepared opium) but not including manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;

# Power of Central Government to permit, control and regulate

- Subject to the provisions of section 8, the Central Government may, by rules-
  - f) The manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances;
  - g) The import into India and export from India and transshipment of narcotic drugs and psychotropic substances;
  - h) Prescribe any other matter requisite to render effective the control of the Central Government over any of the matters specified in clause (a).

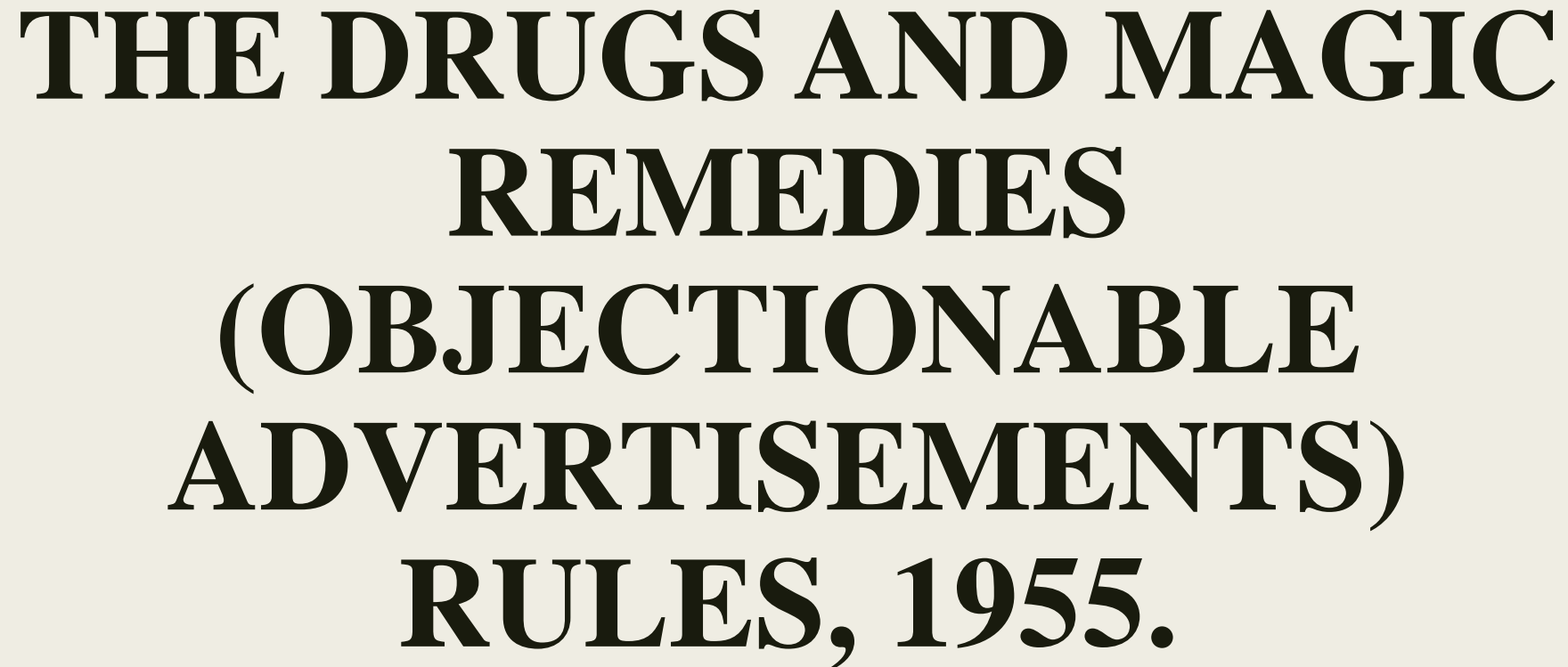
# **Power of Central Government to permit, control and regulate**

- Subject to the provisions of section 8, the Central Government may, by rules-
  2. In particular and without prejudice to the generality of the foregoing power, such rules may-
    - a) Empower the Central Government to fix from time to time the limits within which licenses may be given for the cultivation of the opium poppy;
    - b) Require that all opium, the produce of land cultivated with the opium poppy, shall be delivered by the cultivators to the officers.
    - c) authorized in. this behalf by the Central Government;



# Introduction

<b>Section</b>	<b>Contents</b>
1	Short title, extent & Commencement
2	Definitions
3,4,5,6	Prohibitions
7	Power of entry, search etc
8	Offences by companies
8 A	Offences to be cognizable
9	Jurisdiction to try offences
10	Officers to be deemed to be public servants
11	Indemnity



**THE DRUGS AND MAGIC  
REMEDIES  
(OBJECTIONABLE  
ADVERTISEMENTS)  
RULES, 1955.**

# REFERENCES

- A Textbook of Forensic Pharmacy, by B.M.Mithal, Vallabh Prakashan, page no.144-156
- Pharmaceutical Jurisprudence, by B.S.Kuchekar, Nirali Prakashan, page no.171-176