

IMPORTANT SECTIONS OF NDPS ACT

Sec 8: Prohibition of certain operations.

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 and in a case where any such provision, imposes any requirement by way of licence, permit or authorisation also in accordance with the terms and conditions of such licence, permit or authorisation:

Provided that, and subject to the other provisions of this Act and the rules made thereunder, the prohibition against the cultivation of the cannabis plant for the production of ganja or the production, possession, use, consumption, purchase, sale, transport, warehousing, import inter-State and export inter-State of ganja for any purpose other than medical and scientific purpose shall take effect only from the date which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Sec 20: Punishment for contravention in relation to cannabis plant and cannabis.

Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, --

- (a) **cultivates** any **cannabis** plant; or
- (b) **produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis,**

shall be punishable,--

- (i) where such contravention relates to clause (a) with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees; and
- (ii) where such contravention relates to sub-clause (b),--
 - (A) and involves **small quantity**, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both;
 - (B) and involves quantity **lesser than commercial quantity but greater than small quantity**, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;
 - (C) and involves **commercial quantity**, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Sec 21. Punishment for contravention in relation to manufactured drugs and preparations.—

Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, **manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug** or any preparation containing any manufactured drug shall be punishable,-

- (a) where the contravention involves **small quantity**, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both;
- (b) where the contravention involves quantity, **lesser than commercial quantity but greater than small quantity**, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;
- (c) where the contravention involves **commercial quantity**, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Sec 23. Punishment for illegal import into India, export from India or transhipment of narcotic drugs and psychotropic substances:

Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence or permit granted or certificate or authorisation issued thereunder, **imports into India or exports from India or tranships any narcotic drug or psychotropic substance** shall be punishable, --

- (a) where the contravention involves **small quantity**, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;

- (b) where the contravention involves quantity **lesser than commercial quantity but greater than small quantity**, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;
- (c) where the contravention involves **commercial quantity**, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Sec 24: Punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12.

Whoever engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorisation of the Central Government or otherwise than in accordance with the condition (if any) of such authorisation granted under section 12, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but may extend to two lakh rupees.

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

Sec 25. Punishment for allowing premises, etc., to be used for commission of an offence:-

Whoever, **being the owner or occupier** or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.

Sec 27: Punishment for consumption of any narcotic drug or psychotropic substance.

Whoever, **consumes** any narcotic drug or psychotropic substance shall be punishable,

- (a) where the narcotic drug or psychotropic substance consumed is **cocaine, morphine, diacetylmorphine or any other narcotic drug or any psychotropic substance** as may be **specified** in this behalf by the Central Government by notification in the **Official Gazette**, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and
- (b) where the narcotic drug or psychotropic substance consumed is **other than those specified in or under clause (a)**, with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

Sec 27A. Punishment for financing illicit traffic and harbouring offenders:-

Whoever indulges in **financing, directly or indirectly**, any, of the activities specified in sub-clauses (i) to (v) of 3 [clause (viii b) of section 2] or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

Sec 29. Punishment for abetment and criminal conspiracy:-

- (1) Whoever abets, or is a party to a **criminal conspiracy to commit**, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.
- (2) A person **abets**, or is a **party to a criminal conspiracy** to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—
- (a) would constitute an offence if committed within India;
- or
- (b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.

Sec 39. Power of court to release certain offenders on probation:-

(1) When any addict is found guilty of an offence punishable under section 27 1 [or for offences relating to small quantity of any narcotic drug or psychotropic substance] and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognised by Government and on his entering into a bond in the form prescribed by the Central Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV.

(2) If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under sub-section (1), that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Central Government, with or without sureties, for abstaining from the commission of any offence under Chapter IV during such period not exceeding three years as the court may deem fit to specify or on his failure so to abstain, to appear before the court and receive sentence when called upon during such period.

Sec 41. Power to issue warrant and authorisation.

(2) Any such officer of **gazetted rank** of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including the para-military forces or the armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, police or any other department of a State Government as is **empowered** in this behalf by general or special order of the State Government if he has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or place, **may authorise any officer subordinate to him but superior in rank to a peon, sepoy or a constable to arrest such a person or search a building, conveyance or place whether by day or by night or himself arrest such a person or search a building, conveyance or place.**

Sec 42. Power of entry, search, seizure and arrest without warrant or authorisation.—

(1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has **reason to believe from personal knowledge or information given by any person** and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act **has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture** under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,-

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall **within seventy-two hours send a copy thereof to his immediate official superior.**

Sec 43. Power of seizure and arrest in public place. -- Any officer of any of the departments mentioned in section 42 may

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled

substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

Sec 50: Conditions under which search of persons shall be conducted.

- (1) When any officer duly authorised under section 42 is about to search any person under the provisions of section 41, section 42 or section 43, he shall, if such person so requires, **take such person without unnecessary delay to nearest Gazetted Officer** of any of the departments mentioned in section 42 or to the nearest Magistrate.
- (2) If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in sub-section (1).
- (3) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.
- (4) No female shall be searched by anyone excepting a female.
- 1[(5) When an officer duly authorised under section 42 has **reason to believe that it is not possible** to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, **instead of taking such person to the nearest Gazetted Officer or Magistrate, proceed to search the person as provided under section 100 of the Code of Criminal Procedure, 1973.**
- (6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and **within seventy-two hours send a copy thereof to his immediate official superior.**

Sec 52A. Disposal of seized narcotic drugs and psychotropic substances.--

(1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.

(2) Where any 3[narcotic drugs, psychotropic substances, controlled substances or conveyances] has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) **shall prepare an inventory** of such 3[narcotic drugs, psychotropic substances, controlled substances or conveyances] containing such details relating to their **description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the 3[narcotic drugs, psychotropic substances, controlled substances] or conveyances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the 3[narcotic drugs, psychotropic substances, controlled substances or conveyances]** in any proceedings under this Act and make an application, to any Magistrate for the purpose of--

- (a) certifying the correctness of the inventory so prepared; or
 - (b) taking, in the presence of such magistrate, photographs of 4[such drugs, substances or conveyances] and certifying such photographs as true; or
 - (c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn.
- (3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.
- (4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1972) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of 5[narcotic drugs, psychotropic substances, controlled substances or conveyances] and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.

Sec 57: Report of arrest and seizure.

Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Sec 64. Power to tender immunity from prosecution:

- (1) The Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or order made thereunder it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention.
- (2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made.
- (3) If it appears to the Central Government or, as the case may be, the State Government, that any person to whom immunity has been tendered under this section has not complied with the conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government or, as the case may be, the State Government, may record a finding to that effect and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter. 2 [64A. Immunity from prosecution to addicts volunteering for treatment.— Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances: Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.]

Sec 67. Power to call for information, etc:

Any officer referred to in section 42 who is authorised in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provision of this Act,—

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;
- (b) require any person to produce or deliver any document or thing useful or relevant to the enquiry;
- (c) examine any person acquainted with the facts and circumstances of the case.

Sec 35: Presumption of culpable mental state.

- (1) In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

In this section "culpable mental state" includes intention motive, knowledge of a fact and belief in, or reason to believe, a fact.

- (2) For the purpose of this section, a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.

Sec 54. Presumption from possession of illicit articles.

In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under this Act in respect of--

- (a) any narcotic drug or psychotropic substance or controlled substance;
- (b) any opium poppy, cannabis plant or coca plant growing on any land which he has cultivated;
- (c) any apparatus specially designed or any group of utensils specially adopted for the manufacture of any narcotic drug or psychotropic substance or controlled substance; or

- (d) any materials which have undergone any process towards the manufacture of a narcotic drug or psychotropic substance or controlled substance, or any residue left of the materials from which any narcotic drug or psychotropic substance or controlled substance has been manufactured, for the possession of which he fails to account satisfactorily.

Sec 66. Presumption as to documents in certain cases

Where any document--

- (i) is produced or furnished by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law, or
- (ii) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed by the Central Government) in the course of investigation of any offence under this Act alleged to have been committed by a person,

and such document is tendered in any prosecution under this Act in evidence against him, or against him and any other person who is tried jointly with him, the court shall--

- (a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting; and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;
- (c) examine any person acquainted with the facts and circumstances if it is proved, the truth of the contents of such document.