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**IFTM University, Moradabad, Uttar Pradesh**  
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**IFTM University, Moradabad**

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## **OBJECTIVE**

The Narcotic Drugs and Psychotropic Substances Act, 1985, commonly referred to as the NDPS Act, is an Act of the Parliament of India that prohibits a person the production, manufacturing, cultivation, possession, sale, purchasing, transport, storage, and consumption of any narcotic drug or psychotropic substance.

The main objectives of passing the NDPS Act were the following:

- i) To consolidate and amend the existing laws relating to Narcotic Drug.
- ii) To make strict provisions for the control and regulation of operations relating to NDPS.
- iii) To considerably enhance the penalties particularly for trafficking offences.
- iv) To make provisions for the implementations of International conventions relating to NDPS to which India is a party.

## DEFINITIONS

- “Addict”** means a person who has dependence on any narcotic drug or psychotropic substance.
- “Board”** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).
- “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 known 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 known or designated.
  - (c) any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom.
- “Cannabis Plant”** means any plant of the genus cannabis.

**“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;

**“Coca Leaf”** means—

- (a) the leaf of the coca plant except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed.
- (b) any mixture thereof with or without any neutral material, but does not include any preparation containing not more than 0.1 per cent. of cocaine.

**“Coca Plant”** means the plant of any species of the genus *Erythroxylon*.

**“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 substance.

**“Illicit Traffic”** in relation to narcotic drugs and psychotropic substances, means—

- (i) Cultivating any coca plant or gathering any portion of coca plant.
- (ii) Cultivating the opium poppy or any cannabis plant.
- (iii) 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.
- (iv) Dealing in any activities in narcotic drugs or psychotropic substances other than those referred to above.
- (v) Handling or letting out any premises for the carrying on of any of the activities referred to above.

**“Manufacture”** in relation to narcotic drugs or psychotropic substances, includes—

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

**“Manufactured Drug”** means—

- (a) all coca derivatives, medicinal cannabis, opium derivatives 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.

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

**“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.

(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.

**“opium poppy”** means—

(a) the plant of the species *Papaver somniferum* L.

(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.



**“Opium Derivative”** means—

(a) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the Indian Pharmacopoeia or any other pharmacopoeia notified in this behalf by the Central Government, whether in powder form or granulated or otherwise or mixed with neutral materials.

(b) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked.

(c) phenanthrene alkaloids, namely, morphine, codeine, thebaine and their salts.

(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts.

(e) all preparations containing more than 0.2 per cent. of morphine or containing any diacetylmorphine.

**“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 therefrom.

**“Poppy Straw Concentrate”** means the material arising when poppy straw has entered into a process for the concentration of its alkaloids.

**“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.

## **AUTHORITIES AND OFFICERS**

### **Officers of Central Government—**

- (1) Without prejudice to the provisions of sub-section (3) of section 4, the Central Government shall appoint a Narcotics Commissioner and may also appoint such other officers with such designations as it thinks fit for the purposes of this Act.
- (2) The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy and production of opium and shall also exercise and perform such other powers and functions as may be entrusted to him by the Central Government.
- (3) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government, or, if so directed by that Government, also of the Board or any other authority or officer.

## **Officers of State Government—**

(1) The State Government may appoint such officers with such designations as it thinks fit for the purposes of this Act.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the State Government, or, if so directed by that Government, also of any other authority or officer.

## **CONSTITUTION & FUNCTIONS OF NARCOTIC AND PSYCHOTROPIC CONSULTATIVE COMMITTEE—**

- (1) 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 ” 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.
- (2) The Committee shall consist of a Chairman and such other members, not exceeding twenty, as may be appointed by the Central Government.
- (3) The Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure.
- (4) The Committee may, if it deems it necessary so to do for the efficient discharge of any of its functions, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person (including a non-official) who is not a member of the Committee.
- (5) The term of office of, the manner of filling casual vacancies in the offices of and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint a person who is not a member of the Committee as a member of any of its sub-committees, shall be such as may be prescribed by rules made by the Central Government.

## **NATIONAL FUND FOR CONTROL OF DRUG ABUSE—**

- (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse and there shall be credited thereto—
  - (a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide;
  - (b) the sale proceeds of any property forfeited under Chapter VA;
  - (c) any grants that may be made by any person or institution;
  - (d) any income from investment of the amounts credited to the Fund under the aforesaid provisions.
- (2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for—
  - (a) combating illicit traffic in narcotic drugs, psychotropic substances or controlled substances;
  - (b) controlling the abuse of narcotic drugs and psychotropic substances;
  - (c) identifying, treating, rehabilitating addicts;
  - (d) preventing drug abuse;
  - (e) educating public against drug abuse;
  - (f) supplying drugs to addicts where such supply is a medical necessity.

- (3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette.
- (4) The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.
- (5) The Governing Body shall have the power to regulate its own procedure.

### **Annual Report Of Activities Financed Under The Fund—**

The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under section 7A during the financial year, together with a statement of accounts.

## **PROHIBITION, CONTROL AND REGULATION**

**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 transship 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 there under and in a case where any such provision, imposes any requirement by way of license, permit or authorization also in accordance with the terms and conditions of such license, permit or authorization:



## **POWER OF CENTRAL GOVERNMENT TO PERMIT, CONTROL AND REGULATE.—**

**The Central Government may, by rules—**

(a) permit and regulate—

- (i) 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;
  - (ii) the cultivation (such cultivation being only on account of Central Government) of the opium poppy;
  - (iii) the production and manufacture of opium and production of poppy straw.
  - (iv) 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;
  - (v) 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.
  - (vi) the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances;
  - (vii) the import into India and export from India and transshipment of narcotic drugs and psychotropic substances;
- (b) 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 STATE GOVERNMENT TO PERMIT, CONTROL AND REGULATE—**

**The State Government may, by rules—**

(a) permit and regulate—

- (i) the possession, transport, import inter-State, export inter-State, warehousing, sale, purchase, consumption and use of poppy straw.
  - (ii) the possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of opium;
  - (iii) the cultivation of any cannabis plant, production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of cannabis (excluding Charas).
  - (iv) the manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;
  - (v) the possession, transport, purchase, sale, import inter-State, export inter-State, use or consumption of manufactured drugs and coca leaf and any preparation containing any manufactured drug;
  - (vi) the manufacture and possession of prepared opium from opium lawfully possessed by an addict registered with the State Government on medical advice for his personal consumption.
- (b) prescribe any other matter requisite to render effective the control of the State Government over any of the matters specified in clause (a).

## **OFFENCES AND PENALTIES**

- 1. Cultivation of opium, cannabis or coca plants without license**  
Rigorous imprisonment up to 10 yrs and fine up to Rs. 1 lakh.
- 2. Embezzlement of opium by licensed farmer**  
Rigorous imprisonment 10 to 20 yrs and fine Rs. 1 to 2 lakhs.
- 3. Production, manufacture, possession, sale, purchase, transport, import inter-state, export inter-state or use of narcotic drugs and psychotropic substances.**  
Small quantity- Rigorous imprisonment up to 6 months or fine up to Rs. 10,000 or both. Rigorous imprisonment, up to 10 yrs and fine up to Rs. 1 lakhs.  
Commercial quantity- Rigorous imprisonment 10 to 20 yrs and fine Rs. 1 to 2 lakhs.
- 4. External dealing in NDPS i.e. engaging in or controlling trade whereby drugs are obtained from outside India and supplied to a person outside India.**  
Rigorous imprisonment 10 to 20 yrs and fine of Rs. 1 to 2 lakhs (regarding of the quantity)
- 5. Financing traffic and harboring offenders.**  
Rigorous imprisonment 10 to 20 yrs and fine Rs. 1 to 2 lakhs.

## **REFERENCES**

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