

West Bengal Act XXXVI of 1950

THE WEST BENGAL DRUGS (CONTROL) ACT, 1950.

[4th May, 1950.]

An Act to provide for the control of the sale, supply and distribution of drugs.

WHEREAS it is expedient to provide for the control of the sale, supply and distribution of drugs;

It is hereby enacted as follows:

1. (1) This Act may be called the West Bengal Drugs (Control) Act, 1950.

(2) It extends to the whole of West Bengal.

(3) It shall be deemed to have come into force immediately on the West Bengal Drugs (Control) Ordinance, 1949, ceasing to operate.

2. (1) In this Act, unless there is anything repugnant in the subject or context,

(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 section 3 of the Drugs Act, 1940, 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.

(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;

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

3. The State Government may, by-notification in the Official Gazette, declare any drug to be a drug which this Act shall apply.

For Statement of Objects and Reasons, see the *Calcutta Gazette. Extraordinary*, dated the 13th March, 1950, Part IV, page 307; for proceedings of the West Bengal Legislative Assembly, see the Proceedings of the meeting of the West Bengal Legislative Assembly, held on the 22nd March, 1951.

For notification relating to the drugs specified in the Schedule to which this Act shall apply and the fixation of the maximum retail prices therefor, see notification No. 2178 F.T., dated 3.10.59, published in the *Calcutta Gazette. Extraordinary*, of 1949, Part I, pages 970-9&4, as subsequently amended from time to time.

Short title, extent and common name.

Interpretation.

Drugs to which this Act applies.

West Ben. Ord. VI of 19-19.

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4. (1) The State Government may, by notification in the *Official Gazette*, fix in respect of any drug

Fixing of
maximum
prices and
maximum
quantities
which may
be held or
sold,

- (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.

Restriction
on sale, etc.,
when;
maximum is
fixed under
section 4.

5. 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 subsection (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 subsection (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 article exceeding the maximum fixed by notification under clause (c) of subsection (1) of section 4.

General
limitation on
quantity
which may be
possessed at
one time.

6. (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 State Government 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.

Duty to
declare
possession of
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7. 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 State Government or other officer empowered in this behalf by the State Government, and shall take such action as to the storage, distribution or disposal of the excess quantity as the State Government may direct.

Refusal to
sell.

8. No dealer or producer shall, unless previously authorised to do so by the State Government, 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.

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9. (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 State Government may, by notification in the *Official Gazette*, prescribe the particulars to be contained in any such cash memorandum.

(3) The State Government 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.

Cash memorandum to be given of certain sales.

10. (1) The State Government 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 may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

Marking of prices and exhibiting price list.

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

11. 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.

Obligation to state price separately on composite offer.

¹12. (1) If in the opinion of the State Government it is necessary or expedient so to do, it 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;

Prohibition of sale, etc., and requisitioning of drugs.

¹For notification under section 12(1) (a) of the Act imposing restrictions on the sale and disposal of nicotinic Acid Hydrazine derivative or nicotinic Acid in the State of West Bengal, see notification No. 47B5/2D-5U/52, dated 7.10.52, published in the *Calcutta Gazette*, of 1952, Part I, pages 3344-3345, as amended from time to time.

²For notification under section 12(1) (a) of the Act prohibiting the disposal of certain drugs in this State except under certain conditions, notification No. Med 173139/2D-5/52, dated 30.6.52, published in the *Calcutta Gazette*, of 1952, Part I, page 2209.

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(c) requisition any drug (whether at the place of import or any other place);

and make such further orders as appear to it to be necessary or expedient in connection with any order issued under this sub-section.

(2) Where the State Government has requisitioned any drug under sub-section (1), it may use or deal with the drug in such manner as may appear to it to be expedient, and may acquire it by serving on the owner thereof, or, where the owner is not readily traceable or the ownership is in dispute, by publishing in the *Official Gazette* a notice stating that the State Government has decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the drug or published in the *Official Gazette* under sub-section (2), then at the beginning of the day on which the notice is so served or published, the drug shall vest in the State free from any encumbrance and the requisition thereof shall be deemed to have ended.

(4) Whenever in pursuance of this section, the State Government requisitions or acquires any drug, the State Government shall pay to the owner thereof such amount as compensation as in the opinion of the State Government fairly represents the loss caused to the owner by such requisition or acquisition.

(5) The State Government may, with a view to requisitioning any drug under sub-section (1) or determining the compensation payable under sub-section (4), by order

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the drug as may be so specified;
- (b) direct that the owner of the drug shall not, without the permission of the State Government, dispose of it till the expiry of such period as may be specified in the order.

13. (1) Whoever contravenes any of the provisions of this Act or of 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 State.

(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.

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(Sections 14-19.)

14. 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. (1) No person other than a police officer of or above the rank of Inspector of Police or an officer other than a police officer, authorised in this behalf by the State 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 in the Presidency town of Calcutta, of the Commissioner of Excise, West Bengal, and elsewhere, of the District Magistrate.

16. Any person empowered 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, is being committed, and take possession of any stock of drugs in respect of which the offence has been or is being committed.

17. (1) The State 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 information as may be required with respect to the business earned 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. 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. 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.

(Section 20.)

Sayings and 20. Any rule, order, declaration, requisition or acquisition made, any validation, notification or direction issued, any proceedings commenced, any compensation or punishment awarded, any action taken, and anything done in exercise of any power conferred by or under the West Bengal West Ben. Drugs (Control) Ordinance, 1949, shall, on the said Ordinance ceasing to ^{^9V1n} or operate, be deemed to have been made, issued, commenced, awarded, taken or done in exercise of the powers conferred by the Act as if this Act had commenced on the 3rd day of October, 1949.