THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition of advertisement of certain drugs for treatment of certain diseases and disorders.
4. Prohibition of misleading advertisements relating to drugs.
5. Prohibition of advertisement of magic remedies for treatment of certain diseases and disorders.
6. Prohibition of import into, and export from, India of certain advertisements.
7. Penalty.
8. Powers of entry, search, etc.
9. Offences by companies.

9A. Offences to be cognizable.

10. Jurisdiction to try offences.

10A. Forfeiture.

11. Officers to be deemed to be public servants.
12. Indemnity.
13. Other laws not affected.
14. Savings.
15. Power to exempt from application of Act.
16. Power to make rules.

THE SCHEDULE.

THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954

ACT NO. 21 OF 1954[1]

[30*th April*, 1954.]

An Act to control the advertisement of drugs in certain cases, to prohibit the advertisement for certain purposes of remedies alleged to possess magic qualities and to provide for matters connected therewith.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954.

(*2*) It extends to the whole of India [2]***, and applies also to persons domiciled in the territories to which this Act extends who are outside the said territories.

(*3*) It shall come into force on such date[3] as the Central Government may, by Notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) 'advertisement' includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke;

(*b*) 'drug' includes—

(*i*) a medicine for the internal or external use of human beings or animals;

(*ii*) any substance intended to be used for or in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings or animals;

(*iii*) any article, other than food, intended to affect or influence in any way the structure or any organic function of the body of human beings or animals;

(*iv*) any article intended for use as a component of any medicine, substance or article, referred to in sub-clauses (*i*), (*ii*) and (*iii*);

(*c*) 'magic remedy' includes a talisman, *mantra, kavacha*, and any other charm of any kind which is alleged to possess miraculous powers for or in the diagnosis, cure, mitigation, treatment or prevention of any disease in human beings or animals or for affecting or influencing in any way the structure or any organic function of the body of human beings or animals;

[4][(*cc*) 'registered medical practitioner' means any person,—

(*i*) who holds a qualification granted by an authority specified in, or notified under section 3 of the Indian Medical Degrees Act, 1916 (7 of 1916) specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956); or

1. This Act has been extended to Pondicherry by Reg. 7 of 1963, sec. 3 and Sch. I (w.e.f. 1-10-1963), the State of Sikkim, *vide* S.O. 949 (E), dated 20th October, 1988 and extended to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and Sch., (w.e.f. 1-8-1965).
2. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10- 2019).
3. 1st April, 1955, *vide* notification No. S.R.O. 511, dated 26th February, 1995, *see* Gazette of India, 1955, Part II, s. 3.
4. Ins. by Act 42 of 1963, s. 2 (w.e.f. 7-12-1963).

(*ii*) who is entitled to be registered as a medical practitioner under any law for the time being in force in any State to which this Act extends relating to the registration of medical practitioner;]

(*d*) 'taking any part in the publication of any advertisement' includes—

(*i*) the printing of the advertisement,

(*ii*) the publication of any advertisement outside the territories to which this Act extends by or at the instance of a person residing within the said territories;

[1]* * * * * *

3. Prohibition of advertisement of certain drugs for treatment of certain diseases and disorders.—Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the use of that drug for—

(*a*) the procurement of miscarriage in women or prevention of conception in women; or

(*b*) the maintenance or improvement of the capacity of human beings for sexual pleasure; or

(*c*) the correction of menstrual disorder in women; or

[2][(*d*) the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this Act:

Provided that no such rule shall be made except—

(*i*) in respect of any disease, disorder or condition which requires timely treatment in consultation with a registered medical practitioner or for which there are normally no accepted remedies; and

(*ii*) after consultation with the Drugs Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 (23 of 1940), and if the Central Government considers necessary, with such other persons having special knowledge or practical experience in respect of Ayurvedic or Unani systems of medicines as that Government deems fit.]

4. Prohibition of misleading advertisements relating to drugs.—Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement relating to a drug if the advertisement contains any matters which—

(*a*) directly or indirectly gives a false impression regarding the true character of the drug; or

(*b*) makes a false claim for the drug; or

(*c*) is otherwise false or misleading in any material particular.

5. Prohibition of advertisement of magic remedies for treatment of certain diseases and disorders.—No person carrying on or purporting to carry on the profession of administering magic remedies shall take any part in the publication of any advertisement referring to any magic remedy which directly or indirectly claims to be efficacious for any of the purposes specified in section 3.

6. Prohibition of import into, and export from, India of certain advertisements.—No person shall import into, or export from, the territories to which this Act extends any documents containing an advertisement of the nature referred to in section 3 or in section 4 or section 5, and any document containing any such advertisements shall be deemed to be goods of which the import or export has been prohibited under section 19 of the Sea Customs Act, 1878 (8 of 1878), and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word 'shall' therein the word 'may' were substituted.

1. Clause (*e*) omitted by Act 42 of 1963, s. 2 (w.e.f. 7-12-1963).
2. Subs. by s. 3, *ibid.*, for clause (*d*) (w.e.f. 17-12-1963).

7. Penalty.—Whoever contravenes any of the provisions of this Act [1][or the rules made thereunder] shall, on conviction, be punishable—

(*a*) in the case of the first conviction, with imprisonment which may extend to six months, or with fine, or with both;

(*b*) in the case of a subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

[2][**8. Powers of entry, search, etc.—**(*1*) Subject to the provisions of any rules made in this behalf, any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised,—

(*a*) enter and search at all reasonable times, with such assistants, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

(*b*) seize any advertisement which he has reason to believe contravenes any of the provisions of this Act:

Provided that the power of seizure under this clause may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing, if the advertisement cannot be separated by reason of its being embossed or otherwise, from such document, article or thing without affecting the integrity, utility or saleable value thereof;

(*c*) examine any record, register, document or any other material object found in any place mentioned in clause (*a*) and seize the same if he has reason to believe that it may furnish evidence of the commission of any offence punishable under this Act.

(*2*) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under this Act as they apply to search or seizure made under the authority of a warrant issued under section 98 or the said Code.

(*3*) Where any person seizes anything under clause (*b*) or clause (*c*) of sub-section (*1*), he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.]

9. Offences by companies.—(*1*) If the person contravening any of the provisions of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against, and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*) where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) 'company' means any body corporate and includes a firm or other association of individuals; and

(*b*) 'director' in relation to a firm means a partner in the firm.

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3. Ins. by s. 4, *ibid.* (w.e.f. 17-12-1963).

1. Subs. by Act 42 of 1963, s. 5, for s. 8 (w.e.f. 7-12-1963).

[1][**9A. Offences to be cognizable.—**Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence punishable under this Act shall be cognizable.]

10. Jurisdiction to try offences.—No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

[2][**10A. Forfeiture.—**Where a person has been convicted by any Court for contravening any provision of this Act or any rule made thereunder, the Court may direct that any document (including all copies thereof), article or thing, in respect of which the contravention is made, including the contents thereof where such contents are seized under clause (*b*) of sub-section (*1*) of section 8, shall be forfeited to the Government.]

11. Officers to be deemed to be public servants.—Every person authorized under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

12. Indemnity.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

13. Other laws not affected.—The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

[3][**14. Savings.—**Nothing in this Act shall apply to—

(*a*) any signboard or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in section 3, the Schedule or the rules made under this Act is undertaken in those premises; or

(*b*) any treatise or book dealing with any of the matters specified in section 3 from a *bonafide* scientific or social standpoint; or

(*c*) any advertisement relating to any drug sent confidentially in the manner prescribed under section 16 only to a registered medical practitioner; or

(*d*) any advertisement relating to a drug printed or published by the Government; or

(*e*) any advertisement relating to a drug printed or published by any person with the previous sanction of the Government granted prior to the commencement of the Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963 (42 of 1963):

Provided that the Government may, for reasons to be recorded in writing, withdraw the sanction after giving the person an opportunity of showing cause against such withdrawal.]

15. Power to exempt from application of Act.—If, in the opinion of the Central Government, public interest requires that the advertisement of any specified drug or class of drugs [4][or any specified class of advertisements relating to drugs] should be permitted, it may, by notification in the Official Gazette, direct that the provisions of sections 3,4,5 and 6 or any one of such provisions shall not apply' or shall apply subject to such conditions as may be specified in the notification to or in relation to the advertisement of any such drugs or class of drugs [3][or any such class of advertisements relating to drugs].

16. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power; such rules may—

2. Ins. by s. 6, *ibid*. (w.e.f. 7-12-1963).
1. Ins. by Act 42 of 1963, s. 7 (w.e.f. 7-12-1963).
2. Subs. by s. 8, *ibid.*, for section 14 (w.e.f. 7-12-1963).
3. Ins. by s. 9, *ibid.* (w.e.f. 17-12-1963).

(*a*) specify any [1][disease, disorder or condition] to which the provisions of section 3 shall apply;

5. Subs. by s. 10, *ibid*., for "disease or condition" (w.e.f. 7-12-1963).

(*b*) prescribe the manner in which advertisements of articles or things referred to in clause (*c*) of [1]* * * section 14 may be sent confidentially.

[2][(*3*) Every rule made under this Act 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 or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, 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.]

1. The words, brackets and figure "sub-section (*1*) of" omitted by Act 42 of 1963, s. 10 (w.e.f. 7-12-1963).
2. Ins. by s. 10, *ibid.* (w.e.f. 7-12-1963).

[1][THE SCHEDULE
[*See* sections 3(*d*) and 14]

S. No.	*Name of the disease, disorder or condition*
1.	Appendicitis.
2.	Arteriosclerosis.
3.	Blindness
4.	Blood poisoning.
5.	Bright's disease.
6.	Cancer
7.	Cataract.
8.	Deafness.
9.	Diabetes.
10.	Diseases and disorders of the brain.
11.	Diseases and disorders of the optical system
12.	Diseases and disorders of the uterus
13.	Disorders of menstrual flow.
14.	Disorders of the nervous system.
15.	Disorders of the prostatic gland.
16.	Dropsy.
17.	Epilepsy.
18.	Female diseases (in general)
19.	Fevers (in general).
20.	Fits.
21.	Forms and structure of the female bust.
22.	Gall stones, kidney stones and bladder stones.
23.	Gangrene

1. Added by Act 42 of 1963, s. 11 (w.e.f. 7-12-1963).

S. No.	*Name of the disease, disorder or condition*
24.	Glaucoma.
25.	Goitre.
26.	Heart diseases.
27.	High or low blood pressure.
28.	Hydrocele.
29.	Hysteria.
30.	Infantile paralysis.
31.	Insanity.
32.	Leprosy.
33.	Leucoderma.
34.	Lockjaw.
35.	Locomotor ataxia.
36.	Lupus.
37.	Nervous debility.
38.	Obsesity.
39.	Paralysis.
40.	Plague.
41.	Pleurisy.
42.	Pneumonia.
43.	Rheumatism.
44.	Ruptures.
45.	Sexual impotence.
46.	Smallpox.
47.	Stature of persons.
48.	Sterility in women.
49.	Trachoma.
50.	Tuberculosis.
51.	Tumours.

S. No.	*Name of the disease, disorder or condition*
52.	Typhoid fever.
53.	Ulcers of gastrointestinal tracts.
54.	Venereal diseases, including syphilis, gonorrhea, soft chancre, venereal granuloma and lympho granuloma.]