

ORISSA ACT V OF 1950
THE ORISSA DRUGS (CONTROL) ACT, 1950

[Received the assent of the Governor on the 2nd March 1950, first published in the Orissa Gazette, dated the 10th March 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 :—

Short title, extent and commencement.

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

(2) It extends to the whole of the Province of Orissa.

(3) It shall come into force at once.

Definitions.

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 ;

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(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 ; or when held by that person on behalf of another person

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

add. by
O. Act 14 of 51

Drugs to which this Act applies.

3. The Provincial Government may, by notification, declare any drug to be a drug to which this Act shall apply.

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

4. (1) The Provincial Government may, by notification, fix in respect of any drug—

(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.

Restrictions on sale, etc., where 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 sub-section (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 sub-section (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 sub-section (1) of section 4.

o. Act IV of 51

General limitation of 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 Provincial Government may, by order published in the 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 excess stocks.

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 Provincial Government or any officer empowered in this behalf by the Provincial Government and shall take such action as to the storage, distribution or disposal of the excess quantity as the Provincial Government may direct.

Refusal to sell.

8. No dealer or producer shall, unless previously authorised to do so by the Provincial Government or any officer authorised by the Provincial Government in that behalf, without sufficient cause refuse to sell to any person any drug within the limits as to quantity, if any, imposed by this Act.

Omitted by o. Act IV of 51

Explanation—The possibility or expectation of obtaining a higher price for a drug at a later date shall not be deemed to be sufficient cause for the purpose of this section.

Cash memorandum to be given of certain sales.

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 Provincial Government may, by notification, prescribe the particulars to be contained in any such cash memorandum.

(3) The Provincial Government may, by notification, exempt specified areas, classes of dealers or producers or classes of drugs from the operation of this section.

sale and a statement of the quantity
in his possession and may also by notice
for the manner in which any such direction as
said is to be carried out.

(2) The publication of a notification under sub-
section (1) shall be conclusive proof of the fact that
the persons hereinbefore specified had knowledge of
the directions and the manner of carrying out such
directions contained in such notification.

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

THE ORISSA



GAZETTE

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Marking of prices and exhibiting price list.

Sub. by O. Act IX of 53
 10 (1) The Provincial 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.

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

Amendment of section 12, Orissa Act V of 1950.

7. For section 12, of the said Act the following section shall be substituted, namely:—

“ 12. If in the opinion of the State Government it is necessary or expedient so to do, they 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;

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

(c) requisition any drug (whether at the place of import or at any other place) and make such further orders as appear to them to be necessary or expedient in connection with any order issued under this sub-section.

(2) Where the Provincial Government have requisitioned any drug under sub-section (1), they may use or deal with the drug in such manner as may appear to them 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 Gazette a notice stating that the Provincial Government have 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 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 Provincial Government free from any encumbrance and the requisition thereof shall be deemed to have ended.

(4) Whenever in pursuance of this section the Provincial Government requisition or acquire any drug, the owner thereof shall be paid such compensation as the Provincial Government may, by rules, prescribe.

(5) The Provincial 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;

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(b) direct that the owner of the drug shall not, without the permission of the Provincial Government, dispose of it till the expiry of such period as may be specified in the order.]

Penalties .

O. Act IV of 51

13. (1) ^{add. by O. Act IV of 51} 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 Government.

(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.

Offences by corporations.

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.

Procedure.

15. (1) No person other than a police officer of or above the rank of an Inspector of Police or an officer not being below the rank of an Inspector of Police authorised in this behalf by the Provincial Government by notification 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 of the District Magistrate.

Powers of search and seizure.

16. Any person competent 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, or is being committed and take possession of any stock of drugs in respect of which the offence has been or is being committed. ^{add. by O. Act IV of 51}

Power to make rules.

17. (1) The Provincial 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 carried 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 ;

omit by O. Act V of 51

(d) the compensation which shall be payable under section 12 and the manner in which such compensation shall be determined.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act.

Saving of other laws.

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.

General Amendment: 2. In the Orissa Drugs (Control) Act, 1950 (hereinafter referred to as the said Act), for the words "Province" and "Provincial" wherever they occur, the word "State" shall be substituted.

Amendment of section 2 of Orissa Act of 1950. 3. To clause (i) of sub-section (2) of section 2 of the said Act, the following words shall be added, namely:—

... held by that person on behalf of