

# NDPS Act

September 23, 2020

In order to bring India's narcotics control law at par with international standards, the **National Drugs and Psychotropic Substances Act, 1985** was enacted by the Government of India. The Act is widely regarded as a **prohibitionist law which seeks to grapple with 2 kinds of offences: trafficking of prohibited substances** i.e. cultivation, manufacture, distribution and sale, **as well as their consumption.**

## Provisions of NDPS Act

### ▪ **Specialised Courts**

. The Government of India through an amendment to the NDPS Act in 1989 paved the way for the establishment of specialized courts to deal with offences set out in the Act.

. Sec. 36 of the Act empowers the government to set up as many special courts as it deems fit for the expeditious resolution of disputes.

. The **special court consists of a single judge who is appointed with the concurrence of the Chief Justice of the concerned High Court** and who must be a sitting Sessions Judge or Additional Sessions Judge at the time of his appointment.

### ▪ **Penal Provisions**

. The quantum of punishment under the NDPS Act is **based on the quantity of drugs found** which may be classified into 3 categories: **small, less than commercial and commercial.**

. The punishment may be **as low as rigorous imprisonment for 1 year if the drugs found are in small quantities and as high as 20 years imprisonment for a large quantity of drugs.**

. The amount of small and commercial quantity is specified by

the Central Government.

. **Sec. 8 of the Act explicitly prohibits the cultivation** of opium, poppy, coca or cannabis plants as well as the production, manufacture, distribution including warehousing, transport, purchasing and selling of prohibited drugs and psychotropic substances.

. It also **prohibits their financing as well as consumption and harboring offenders guilty under the Act.**

- **Procedural Safeguards**

. Since the NDPS Act gives extensive powers to law enforcement agencies to clamp down on malpractices connected with drug abuse, it also seeks to put in place adequate safeguards to prevent innocent civilians from being unnecessarily harassed.

. Any person making an arrest or seizure under the Act is, therefore, required to make an **extensive report containing all relevant details which must be sent to his immediate superior.**

. Similarly, Sec. 100 of the CRPC states that any police officer who wishes to search any person who is believed to be concealing something suspicious must do so only in the **presence of at least 2 respectable inhabitants of that locality known as panchas.**

- **Medicinal Drugs**

. The 2014 amendment seeks to put in place a **single window clearance system** in accordance with which every hospital which is in need of these drugs would be granted the status of a **recognized medical institution (RMI).**

. It seeks to create a special category of drugs called **Essential Narcotic Drugs whose use would be largely regulated** by the central government.

- **Rehabilitation of Drug Addicts**

. The amendment focuses on the management of drug dependents and paves the way for the **accreditation of treatment centres by relevant government authorities.**

- **Agencies Responsible for Implementation of the Law**

. The **Department of Social Welfare** has been declared as the nodal agency that monitors the initiatives undertaken by various organizations, public and private, for spreading greater awareness about the deleterious effects of drug abuse.

. A central agency, known as the **Narcotics Control Bureau**, is tasked with the responsibility of overseeing the activities undertaken by various law enforcement agencies and to ensure constant compliance with various international instruments that India has signed.

. The **Ministry of Finance** looks into cases grappling with drug trafficking, money laundering and other offences which are closely linked with drug abuse.