Narcotic Drugs and Psychotropic Substances Act 1985 and Rules

Objectives of the NDPS Act, 1985

- The primary objective of the NDPS Act is to control and regulate operations relating to narcotic drugs and psychotropic substances.

Key Objectives:

1. **Prohibition of Narcotics Trade and Use:**
   - Prevent the illicit trafficking and unauthorized use of narcotic drugs and psychotropic substances.
2. **Regulation of Operations:**
   - Regulate the production, manufacture, possession, transport, sale, purchase, use, consumption, import, and export of these substances for medical and scientific purposes only.
3. **Punitive and Deterrent Measures:**
   - Provide stringent punishment for drug-related offenses to act as a deterrent.
4. **International Obligations:**
   - Fulfill India’s commitments under UN drug control conventions (e.g., Single Convention on Narcotic Drugs, 1961; Convention on Psychotropic Substances, 1971).
5. **Empower Enforcement Agencies:**
   - Provide powers to central and state authorities for enforcement.
6. **Rehabilitation Measures:**
   - Provisions for treatment and rehabilitation of drug addicts (e.g., Sections 64A, 71).

Definitions (Section 2 of the NDPS Act)

Understanding the Act begins with key definitions, which define the scope of regulation.

Key Terms:

- **Narcotic drug**: Includes substances like opium, coca leaf, cannabis, poppy straw, and their derivatives.
- **Psychotropic substance**: Any substance, natural or synthetic, or any natural material listed in the **Schedule of the Act**, which has the potential to **alter mental function**.

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- **Manufacture**: Includes **all processes** involved in producing the final product (e.g., refining, formulating, packing, labeling).
- **Controlled substance**: A chemical or substance which can be used to **manufacture narcotic drugs or psychotropic substances**.
- **Illicit traffic**: Includes **cultivation, manufacture, possession, sale, purchase, transport, import/export, and use** without authorization.
- **Addict**: A person who **habitually consumes** any narcotic drug or psychotropic substance.
- **External dealings**: Refers to trade with **foreign countries** related to narcotics and psychotropics.

Authorities and Officers under the NDPS Act

Several authorities are empowered to **enforce** the provisions of the Act.

Key Authorities:

1. **Narcotics Control Bureau (NCB):**
   - Apex agency under Ministry of Home Affairs.
   - Coordinates actions by various central and state agencies.
2. **Central Government:**
   - Has power to regulate, permit, or prohibit drug-related activities (Sec. 9).
3. **State Government:**
   - Can frame rules under Section 10 regarding **possession, transport, and consumption** of drugs within the state.
4. **Other Enforcement Agencies:**
   - **Customs**, **Excise**, **Police**, **CBI**, and **Revenue Intelligence** are empowered to take action under this Act.
5. **Officers of Empowered Agencies:**
   - Officers are granted **search, seizure, arrest, and investigation powers** under Sections 41 to 43 and 50.

Prohibition

- The NDPS Act **prohibits** a broad range of activities unless **specifically licensed or authorized**.

Prohibited Activities Without License:

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A. Cultivation

- Cultivation of coca, opium poppy, and cannabis plants is prohibited without a license.

B. Production and Manufacture

- Manufacturing narcotic drugs or psychotropic substances without authorization is illegal.

C. Possession and Use

- Possession of narcotic drugs or psychotropic substances without legal authorization is punishable.

D. Sale, Purchase, and Trade

- Any trade, distribution, or transaction involving such substances without appropriate licenses is banned.

E. Import/Export

- Import into or export from India of these substances is strictly controlled and requires permits.

Any engagement in the above without proper license is considered an **offense**.

Control and Regulation under the NDPS Act

- The NDPS Act distinguishes between **prohibited** and **regulated** activities.
- Regulated activities are allowed under a licensing system, with control shared by the **Central** and **State Governments**.

A. Licensing Requirements

- Mandatory for cultivation, manufacture, possession, sale, transport, import, and export of narcotic drugs and psychotropic substances for **medical or scientific use**.

B. Central Government Monopoly

- Sole authority over cultivation of **opium poppy** and certain other narcotic plants.

C. Regulatory Powers

- **Central Government (Section 9):** Regulates production, trade, and interstate movement.
- **State Government (Section 10):** Manages intra-state activities like possession, transport, and consumption.

D. NDPS Rules, 1985

- Define procedures for **licensing, permits, quotas**, and **record-keeping**.

E. Essential Narcotic Drugs (ENDs)

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- Post-2014, drugs like **morphine**, **fentanyl**, and **methadone** are more accessible for **palliative care** by licensed practitioners and institutions.

F. Psychotropic Substances Schedule

- Government-maintained and regularly updated list of regulated substances.

G. Controlled Substances (Precursors)

- Chemicals like **acetic anhydride**, **ephedrine**, and **pseudoephedrine** are regulated due to their role in drug manufacturing.

Offences and Penalties

- This is the most **stringent and detailed** part of the Act.
- Penalties are based on **quantity involved** (small, less than commercial, commercial).

Categories of Offenses:

1. Possession (Section 21, 22):

- **Small quantity**: up to 1 year imprisonment or ₹10,000 fine or both.
- **More than small but less than commercial**: up to 10 years imprisonment + fine up to ₹1 lakh.
- **Commercial quantity**: 10–20 years imprisonment + fine ₹1–2 lakh (can go higher).

2. Cultivation of cannabis or opium (Sec. 18, 20):

- Punishable by rigorous imprisonment and fine based on scale.

3. Trafficking and Financing (Sec. 27A):

- For financing or harboring traffickers: 10–20 years imprisonment + fine.

4. Repeat Offenders (Sec. 31):

- Enhanced punishment; may extend to life imprisonment.

5. Death Penalty (Sec. 31A):

- In rarest of rare cases involving huge quantities and repeat offenses.

6. Consumption (Sec. 27):

- For personal consumption:
  - Cocaine, morphine, heroin: 1 year + ₹20,000 fine.
  - Others: 6 months + ₹10,000 fine.

7. Immunity Provisions:

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