D.PHARM • SECOND YEAR

Pharmacy Law & Ethics

CHAPTER 5

Drugs and Magic Remedies (Objectionable Advertisements) Act 1954



ENGLISH CHAPTER NOTES

DIPLOMA IN PHARMACY

DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT 1954

Exaggerated claims



"Cures every disease instantly!"

Self-medication



People use drugs without professional advice.

Quackery



False experts promote "miracle cures".

LEGAL IDENTITY

- Act No. 21 of 1954.
- Enacted on 30 April 1954; in force from 1 April 1955.
- Extends throughout India and also applies to persons domiciled in India when outside India.

OBJECTIONABLE ADVERTISEMENTS

PUBLIC PROTECTION

KEY OBJECTIVES

1. **CONTROL DRUG ADS**
   Restrict drug advertising for sensitive purposes and specified diseases or conditions.
2. **STOP DECEPTION**
   Protect public health from false, misleading and objectionable claims.
3. **RESTRICT MAGIC CLAIMS**
   Stop claims that a magic remedy is effective for those prohibited purposes.
4. **CONTROL CROSS-BORDER DOCUMENTS**
   Regulate import into and export from India of documents carrying prohibited advertisements.

WHY THE LAW WAS NEEDED

Objectionable advertisements encouraged harmful self-medication, quackery and belief in unsupported "miracle cures".

MAIN PURPOSE

Control advertisements of drugs in specified cases and prohibit advertisements for remedies alleged to have magic qualities.

SCOPE | The Act regulates advertising claims. It works in addition to other applicable drug, consumer and professional laws.

DEFINITIONS

ADVERTISEMENT — Section 2(a)

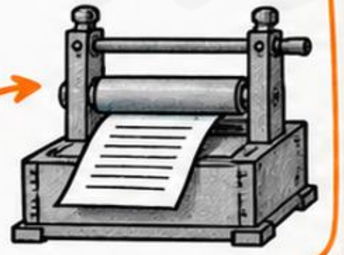
Includes any notice, circular, label, wrapper or other document, and any oral announcement or announcement made by a means producing or transmitting light, sound or smoke.





TAKING PART IN PUBLICATION — Section 2(d)

Includes printing an advertisement and publishing it outside India by, or at the instance of, a person residing in India.



The statutory definition is technology-neutral; the legal issue is the communication and claim, not merely the platform used.

REGISTERED MEDICAL PRACTITIONER



A person holding or entitled to registration under the applicable medical-registration law described in the Act.

DRUG — Section 2(b)



Includes:

- medicine for internal or external use in humans or animals;
- a substance intended for diagnosis, cure, mitigation, treatment or prevention of disease;
- an article other than food intended to affect body structure or an organic function; and
- a component of such medicine, substance or article.

MAGIC REMEDY — Section 2(c)

Includes a talisman, mantra, kavacha or any other charm alleged to have miraculous power for disease-related purposes or for affecting body structure or an organic function.



PROHIBITED ADVERTISEMENTS

SECTION 3 — PROHIBITED PURPOSES

No person may take part in publication of a drug advertisement whose wording suggests or is calculated to lead to use of that drug for:

1. **REPRODUCTIVE CLAIMS**
   Procuring miscarriage in women or preventing conception in women.
2. **SEXUAL-PLEASURE CLAIMS**
   Maintaining or improving human capacity for sexual pleasure.
3. **MENSTRUAL-DISORDER CLAIMS**
   Correcting menstrual disorder in women.
4. **SCHEDULED CONDITIONS**
   Diagnosing, curing, mitigating, treating or preventing a disease, disorder or condition listed in the Act Schedule or specified by the Rules.

ACT SCHEDULE

The statutory Schedule contains **54** conditions. Important examples include cancer, diabetes, epilepsy, leprosy, heart diseases, high or low blood pressure, tuberculosis, cataract, glaucoma, paralysis, pneumonia, sexual impotence, sterility in women and gastro-intestinal ulcers.



RULE 6 SCHEDULE

The 1955 Rules additionally specify:

- Asthma
- AIDS

EXAM POINT

Check the current Act Schedule and Rules together. A condition not on these lists is still covered by **Section 4** if the advertisement gives a false impression, makes a false claim, or is materially misleading.

This list is **not** a licence for other false claims.

PROHIBITED ADVERTISEMENTS

SECTION 4 – MISLEADING DRUG ADVERTISEMENTS

No person may take part in publication of a drug advertisement containing matter that:

- directly or indirectly gives a false impression about the drug's true character;
- makes a false claim for the drug; or
- is otherwise false or misleading in any material particular.

Practical examples may include an unsupported "guaranteed cure", hiding a material limitation, or implying that a drug is completely safe when the claim is false or misleading.



SECTION 5 – MAGIC REMEDIES



A person carrying on, or claiming to carry on, the profession of administering magic remedies must not advertise a magic remedy as effective for any purpose listed in **Section 3**.

HOW TO TEST AN ADVERTISEMENT

Read both the express words and the impression created indirectly. A truthful product name does not cure a false or misleading therapeutic message.

SECTION 6 – CROSS-BORDER DOCUMENTS

No person may import into India or export from India a document containing an advertisement prohibited by **Section 3, 4 or 5**.



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