Drugs and Magic Remedies (Objectionable Advertisements) Act 1954

Objectives of the Drugs and Magic Remedies Act

Purpose:

- The primary objective of the Act is to control the advertisement of drugs in India, and prohibit misleading and objectionable advertisements relating to drugs and so-called “magic remedies.”

Key Aims:

- **Protect public health** from self-medication and quackery.
- **Prevent exploitation** of vulnerable individuals who may be misled by deceptive claims.
- **Curb false claims** about the efficacy of drugs and magic remedies.
- **Regulate advertising practices** in pharmaceuticals and traditional medicine sectors.
- **Safeguard consumers** from fraudulent or exaggerated claims by manufacturers or practitioners.

Need for the Act:

- Before 1954, many products were being advertised with false or exaggerated claims, especially those related to sexual health, fertility, cancer, etc.
- These advertisements created public health risks.
- Many so-called “miracle cures” had no scientific basis and could be dangerous.

Definitions under the Drugs and Magic Remedies Act

- Understanding the definitions is critical as they shape the scope of the Act:

Section 2: Key Definitions

A. Advertisement:

- Defined as any notice, circular, label, wrapper, or other document, or any oral or broadcast announcement (including radio, TV, and other media), that promotes or suggests the use of any drug or remedy.
- It covers:
    - Print ads (newspapers, labels, leaflets)
    - Broadcast media (radio, TV)
    - Digital platforms (websites, social media)
    - Packaging or product inserts

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B. Drug:

- Includes all medicines for internal or external use of human beings or animals and substances used for diagnosis, treatment, mitigation, or prevention of disease.
- This includes:
    - Allopathic medicines
    - Ayurvedic, Unani, Siddha, and Homeopathic drugs
    - Herbal preparations with therapeutic claims

C. Magic Remedy:

- Refers to any talisman, mantra, kavacha, or charm that is claimed to possess magical or miraculous powers to cure diseases or influence bodily functions.
- Examples include:
    - Supernatural healing objects
    - Religious or spiritual rituals promoted as treatments
    - Products advertised to have mystical or divine curative powers

D. Taking Part in Publication:

- This includes anyone who directly or indirectly contributes to the creation, publication, or distribution of the advertisement.
- Covers:
    - Publishers
    - Editors
    - Advertising agencies
    - Distributors or agents

Prohibition of Certain Advertisements (Sections 3, 4, 5 and 6)

This section outlines the core prohibitions under the Act.

Section 3: Prohibition of Advertisement of Certain Drugs

- This section **prohibits advertisements** that:
    - ➢ Claim to treat, cure, or prevent diseases listed in the **Schedule** of the Act.
    - ➢ Promote drugs for conditions such as cancer, diabetes, epilepsy, and other serious diseases.
    - ➢ Encourage people to **self-medicate** for critical illnesses.

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- Diseases listed in the Schedule include:
  - Cancer
  - Diabetes
  - Asthma
  - Epilepsy
  - Hernia
  - Leprosy
  - AIDS (included through later amendments)
  - Impotency and other sexual disorders

Section 4: Prohibition of Misleading Advertisements Relating to Drugs

- This section **bans advertisements** that:
  - Are false, misleading, or deceptive.
  - Create unrealistic expectations about the effectiveness of a drug.
  - Encourage indiscriminate or unsafe use of drugs.
  - Claim that the drug is absolutely safe or free from side effects.

Section 5: Prohibition of Advertisement of Magic Remedies

- This section **prohibits advertisements** that claim any **magic remedy** can:
  - Cure or prevent diseases listed in the Schedule.
  - Influence the functioning of any organ or body system.
  - Affect fertility, sexual potency, or psychological conditions.

Section 6: Prohibition of import into India and distribution

- No person shall import or distribute any advertisement that violates the Act.

Classes of Exempted Advertisements (Section 14 and Related Rules)

Although the Act is restrictive, it allows for **certain exemptions** under specific conditions.

Categories of Exempted Advertisements:

1. Medical Journals:

- Ads published in scientific or technical journals meant for medical professionals.

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- Not accessible or targeted to the general public.

2. **Government-Approved Ads:**
   - Advertisements or public notices issued or approved by the government, especially for public health campaigns (e.g., TB awareness, HIV/AIDS education).
3. **Drugs Controlled Under Other Laws:**
   - Drugs that are regulated under other laws (like the Drugs and Cosmetics Act) may be advertised if they meet all legal requirements.
4. **Educational Materials:**
   - Non-promotional materials aimed at educating the public without advertising a specific product or service.
5. **Labeling and Instructions:**
   - Drug labels and instruction leaflets are allowed if they are informative, not promotional, and meet labeling laws.
6. **Doctor-to-Doctor Communication:**
   - Information shared directly between registered medical practitioners for professional reference, not public advertising.

These exemptions are **conditional** and still cannot contain **false or exaggerated claims**.

Offences and Penalties (Section 7)

General Violations

- Violations of the Act attract **criminal penalties**.

First Offence

- Imprisonment: Up to **6 months**
- Fine: Up to **₹1,000**
- Or **both**

Subsequent Offence

- Imprisonment: Up to **1 year**
- Fine: Up to **₹2,000**
- Or **both**

Continuing Offence

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