Essential Commodities Act, 1955

Introduction to the Essential Commodities Act (ECA), 1955

Introduction

- The Essential Commodities Act, 1955 was enacted by the Government of India to ensure the equitable distribution, availability at fair prices, and prevention of hoarding and black-marketing of essential commodities.
- Drugs and medicines, being life-saving products, fall under the category of essential commodities, and therefore their prices and distribution are regulated under this Act.
- The Drug Price Control Order (DPCO) is issued under the provisions of the ECA to control the prices of essential medicines.

Objectives of the Essential Commodities Act

1. **Availability at fair prices** – To ensure that essential commodities like food, fuel, and medicines are available at reasonable rates.
2. **Prevent hoarding and profiteering** – To stop unfair trade practices like black-marketing.
3. **Protect consumers** – To safeguard people from exploitation during shortages or crises.
4. **Enable government intervention** – Gives the government the legal authority to regulate production, supply, and distribution of essential commodities.
5. **Support public welfare** – To maintain social justice by ensuring basic necessities and medicines are accessible to all.

Essential Commodities under the Act

- The Act covers commodities considered vital for everyday life such as:
    - Foodstuffs (rice, wheat, sugar, edible oils).
    - Petroleum products.
    - Fertilizers.
    - Drugs and pharmaceuticals (when notified).
- The inclusion of **drugs** as essential commodities enabled the government to issue **Drug Price Control Orders**.

Provisions of the Essential Commodities Act Relevant to Drugs

- The ECA empowers the **Central Government** to regulate essential commodities, including **drugs**.

Important provisions that directly impact drug regulation are:

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1. Section 2 (a): Definition of Essential Commodities

- Drugs and medicines are **notified as essential commodities** under this section.
- This provides the **legal foundation** for bringing pharmaceuticals under regulation.

2. Section 3: Powers to Control Production, Supply, Distribution, and Prices

- The most important section for DPCO.
- It authorizes the government to:
  - Regulate **prices** of drugs.
  - Direct manufacturers to **sell at fixed prices**.
  - Regulate **distribution and supply** to prevent shortages.
  - Fix **maximum retail prices (MRPs)**.
- DPCO is issued under **Section 3 of the ECA**.

3. Section 7: Penalties

- If anyone violates the orders issued under Section 3 (such as DPCO), they can be:
  - **Imprisoned up to 7 years** and fined, or
  - Penalized with fines and confiscation of stock.

4. Section 6A: Seizure and Confiscation

- Allows authorities to **seize drugs** if sold at prices higher than those fixed under DPCO.
- Prevents **profiteering and black-marketing**.

5. Section 10: Offences by Companies

- If a company violates drug price regulations, **both the company and responsible managers/directors** can be prosecuted.

Drug Price Control Order (DPCO) under ECA

What is DPCO?

- A legal order issued under Section 3 of the ECA.
- Controls the prices of essential medicines listed under the National List of Essential Medicines (NLEM).

How ECA supports DPCO?

1. **Legal Authority**: DPCO has no independent law; it is valid only because it is issued under Section 3 of ECA.
2. **Price Fixation**: ECA empowers the government to fix ceiling prices of scheduled drugs.

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3. **Penalties**: Violations of DPCO (overcharging, hoarding) are punished under Section 7 of ECA.
4. **Seizure of Stock**: ECA allows authorities to seize hoarded or overpriced medicines.
5. **Consumer Protection**: ECA ensures that essential medicines remain affordable and accessible.

Role of NPPA under ECA and DPCO

- The **National Pharmaceutical Pricing Authority (NPPA)** is the implementing agency for DPCO.
- Its powers come from ECA.

NPPA functions under ECA:

- Fix and revise **ceiling prices** of essential drugs.
- Ensure manufacturers comply with DPCO.
- Recover amounts overcharged (with interest) under Section 7 of ECA.
- Conduct inspections, raids, and confiscation of stocks.

Case Examples of ECA Application in Drug Price Control

1. NPPA vs. Pharma Companies

- Many companies were penalized for **overcharging consumers** beyond DPCO ceiling prices.
- Excess profit was ordered to be refunded to consumers or deposited with the government.

2. COVID-19 Pandemic (2020–21)

- Essential drugs like **Remdesivir, Favipiravir, and oxygen supplies** were regulated under ECA provisions to prevent black-marketing.
- NPPA fixed ceiling prices for critical COVID medicines.

Significance of ECA for Drug Price Control

- Provides the legal backbone for DPCO.
- Protects consumers against unfair pricing.
- Ensures essential and life-saving medicines remain affordable.
- Prevents market manipulation, shortages, and black-marketing.
- Balances industry interests and public health needs.

Criticism and Limitations

1. **Low penalties** (compared to pharma profits) reduce deterrent effect.
2. **Price control limited to NLEM drugs** – many costly medicines remain outside regulation.
3. **Enforcement challenges** in rural areas due to limited manpower.

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4. May discourage **innovation and R&D** if companies feel price controls reduce profitability.
5. **Litigation** – pharma companies often challenge NPPA/ECA actions in courts.

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