# Narcotic Drugs And Psychotropic Substances Act, 1985

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# THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

ACT NO. 61 OF 1985

[16th September, 1985.]

An Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances [1][, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances] and for matters connected therewith.

Be it enacted by Parliament in the Thirty-sixty Year of the Republic of India as follows:—

## CHAPTER I: PRELIMINARY

**1. Short title, extent and commencement.—**

(1) This Act may be called the Narcotic Drugs and Psychotropic Substances Act, 1985.

(2) It extends to the whole of India [2][and it applies also—

(a) to all citizens of India outside India;

(b) to all persons on ships and aircrafts registered in India, wherever they may be].

(3) It shall come into force on such date [3]as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

[4][(i) "addict" means a person who has dependence on any narcotic drug or psychotropic substance;]

(ii) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(iii) "cannabis (hemp)" means—

(a) charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;

(b) ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and

(c) any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom;

[1]Ins. by Act 2 of 1989, s. 2 (w.e.f. 29-5-1989).

[2]Ins. by Act 9 of 2001, s. 2 (w.e.f. 2-10-2001).

[3]14th November, 1985, vide notification No. S.O. 821(E), dated 14th November, 1985, see Gazette of India, Extraordinary, Part II, sec. 3(ii).

[4]Subs. by Act 9 of 2001, s. 3, for clause (i) (w.e.f. 2-10-2001).

(iv) “cannabis plant” means any plant of the genus cannabis;

[1][(iva) “Central Government factories” means factories owned by the Central Government or factories owned by any company in which the Central Government holds at least fifty-one per cent. of the paid-up share capital;]

(v) “coca derivative” means—

(a) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;

(b) ecgonine and all the derivatives of ecgonine from which it can be recovered;

(c) cocaine, that is, methyl ester of benzoyl-ecgonine and its salts; and

(d) all preparations containing more than 0.1 per cent. of cocaine;

(vi) “coca leaf” means—

(a) the leaf of the coca plant except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed;

(b) any mixture thereof with or without any neutral material, but does not include any preparation containing not more than 0.1 per cent. of cocaine;

(vii) “coca plant” means the plant of any species of the genus Frythroxylon;

[2][(viia) “commercial quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette;

(viib) “controlled delivery” means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, controlled substances or substances substituted for them to pass out of, or through or into the territory of India with the knowledge and under the

supervision of an officer empowered in this behalf or duly authorised under section 50A with a view to identifying the persons involved in the commission of an offence under this Act;

(viic) “corresponding law” means any law corresponding to the provisions of this Act;]

[3][[4][(viid)] “controlled substance” means any substance which the Central Government may, having regard to the available information as to its possible use in the production or manufacture of narcotic drugs or psychotropic substances or to the provisions of any International Convention, by notification in the Official Gazette, declare to be a controlled substance;]

(viii) “conveyance” means a conveyance of any description whatsoever and includes any aircraft, vehicle or vessel;

[1][(viiia) “essential narcotic drug” means a narcotic drug notified by the Central Government for medical and scientific use;]

[3][[5][(viiib)] “illicit traffic”, in relation to narcotic drugs and psychotropic substances, means—

(i) cultivating any coca plant or gathering any portion of coca plant;

(ii) cultivating the opium poppy or any cannabis plant;

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transhipment, of narcotic drugs or psychotropic substances;

[1]Ins. by Act 16 of 2014, s. 2 (w.e.f. 1-5-2014).
[2]Ins. by Act 9 of 2001, s. 3 (w.e.f. 2-10-2001).
[3]Ins. by Act 2 of 1989, s. 3 (w.e.f. 29-5-1989).
[4]Clause (viia) relettered as clause (viid) thereof by Act 9 of 2001, s. 3 (w.e.f. 2-10-2001).
[5]Clause (viiia) relettered as clause (viiib) thereof by Act 16 of 2014, s. 2 (w.e.f. 1-5-2014).

(iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii); or (v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv), other than those permitted under this Act, or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder, and includes—

(1) financing, directly or indirectly, any of the aforementioned activities;

(2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and

(3) harbouring persons engaged in any of the afore-mentioned activities;]

(ix) “International Convention” means—

(a) the Single Convention on Narcotic Drugs, 1961 adopted by the United Nations Conference at New York in March, 1961;

(b) the Protocol, amending the Convention mentioned in sub-clause (a), adopted by the United Nations Conference at Geneva in March, 1972;

(c) the Convention on Psychotropic Substances, 1971 adopted by the United Nations Conference at Vienna in February, 1971; and

(d) any other international convention, or protocol or other instrument amending an international convention, relating to narcotic drugs or psychotropic substances which may benratified or acceded to by India after the commencement of this Act;

(x) “manufacture”, in relation to narcotic drugs or psychotropic substances, includes—

(1) all processes other than production by which such drugs or substances may be obtained;

(2) refining of such drugs or substances;

(3) transformation of such drugs or substances; and

(4) making of preparation (otherwise than in a pharmacy on prescription) with or containing such drugs or substances;

(xi) “manufactured drug” means—

(a) all coca derivatives, medicinal cannabis, opium derivatives and poppy straw concentrate;

(b) any other narcotic substance or preparation which the Central Government may, having regard to the available information as to its nature or to a decision, if any, under any

InternationalConvention, by notification in the Official Gazette, declare not to be a manufactured drug, but does not include any narcotic substance or preparation which the Central Government may, having regard to the available information as to its nature or to a decision, if any, under any International Convention, by notification in the Official Gazette, declare not to be a manufactured drug;

(xii) “medicinal cannabis”, that is, medicinal hemp, means any extract or tincture of cannabis (hemp);

(xiii) “Narcotics Commissioner” means the Narcotics Commissioner appointed under section 5;

(xiv) “narcotic drug” means coca leaf, cannabis (hemp), opium, popy straw and includes all manufactured drugs;

(xv) “opium” means—

(a) the coagulated juice of the opium poppy; and

(b) any mixture, with or without any neutral material, of the coagulated juice of the opium poppy, but does not include any preparation containing not more than 0.2 per cent. of morphine;

(xvi) “opium derivative” means—

(a) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the Indian Pharmacopoeia or any other pharmacopoeia notified in this behalf by the Central Government, whether in powder form or granulated or otherwise or mixed with neutral materials;

(b) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked;

(c) phenanthrene alkaloids, namely, morphine, codeine, thebaine and their salts;

(d) diacetylmorphine, that is, the alkaloid also known as dia-morphine or heroin and its salts; and

(e) all preparations containing more than 0.2 per cent. of morphine or containing any diacetylmorphine;

(xvii) “opium poppy” means—

(a) the plant of the species Papaver somniferum L; and

(b) the plant of any other species of Papaver from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act;

(xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;

(xix) “poppy straw concentrate” means the material arising when poppy straw has entered into a process for the concentration of its alkaloids;

(xx) “preparation”, in relation to a narcotic drug or psychotropic substance, means any one or more such drugs or substances in dosage form or any solution or mixture, in whatever physical state, containing one or more such drugs or substances;

(xxi) “Prescribed” means prescribed by rules made under this Act;

(xxii) “production” means separation of opium, poppy straw, coca leaves or cannabis from the plants from which they are obtained;

(xxiii) “Psychotropic substance” means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule;

1[(xxiiia) “small quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity lesser than the quantity specified by the Central Government by notification in the Official Gazette;]

(xxiv) “to import inter-State” means to bring into a State or Union territory in India from another State or Union territory in India;

(xxv) “to import into India”, with its grammatical variations and cognate expressions, means to bring into India from a place outside India and includes the bringing into any port or airport or place in India of a narcotic drug or a psychotropic substance intended to be taken out of India without being removed from the vessel, aircraft, vehicle or any other conveyance in which it is being carried.

**Explanation.**—For the purposes of this clause and clause (xxvi), “India” includes the territorial waters of India;

> [1]Ins. by Act 9 of 2001, s. 3 (w.e.f. 2-10-2001).

(xxvi) “to export from India”, with its grammatical variations and cognate expressions, means to take out of India to a place outside India;

(xxvii) “to export inter-State” means to take out of a State or Union territory in India to another State or Union territory in India;

(xxviii) “to transport” means to take from one place to another within the same State or Union territory;

[1][(xxviiia) “use” , in relation to narcotic drugs and psychotropic substances, means any kind of use except personal consumption;]

(xxix) words and expressions used herein and not defined but defined in the Code of Criminal Procedure, 1973 (2 of 1974) have the meanings respectively assigned to them in that Code.

**Explanation.**—For the purposes of clauses (v), (vi), (xv) and (xvi) the percentages in the case of liquid preparations shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gram of substance, if solid, or one mililitre of substance, if liquid, is contained in every one hundred mililitre of the preparation and so on in proportion for any greater or less percentage:

Provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid preparations prescribe, by rules, any other basis which it may deem appropriate for such calculation.

**3. Power to add to or omit from the list of psychotropic substances.—**The Central Government may, if satisfied that it is necessary or expedient so to do on the basis of—

(a) the information and evidence which has become available to it with respect to the nature and effects of, and the abuse or the scope for abuse of, any substance (natural or synthetic) or natural material or any salt or preparation of such substance or material; and

(b) the modifications or provisions (if any) which have been made to, or in, any International Convention with respect to such substance, natural material or salt or preparation of such substance or material,

by notification in the Official Gazette, add to, or, as the case may be, omit from, the list of psychotropic substances specified in the Schedule such substance or natural material or salt or preparation of such substance or material.

# CHAPTER II: AUTHIRITIES AND OFFICERS

**4. Central Government to take measures for preventing and combating abuse of and illicit traffic in narcotic drugs, etc.—**

(1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of preventing and combating abuse of narcotic drugs and psychotropic substances and the illicit traffic therein 2[and for ensuring their medical and scientific use].

> [1]Ins. by Act 2 of 1989, s. 3 (w.e.f. 29-5-1989).
> [2]Ins. by Act 16 of 2014, s. 3 (w.e.f. 1-5-2014).

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions by various officers, State Governments and other authorities—

(i) under this Act, or

(ii) under any other law for the time being in force in connection with the enforcement of the provisions of this Act;

(b) obligations under the International Conventions;

(c) assistance to the concerned authorities in foreign countries and concerned international organisations with a view to facilitating coordination and universal action for prevention and suppression of illicit traffic in narcotic drugs and psychotropic substances;

(d) identification, treatment, education, after care, rehabilitation and social re-integration of addicts;

[1][(da) availability of narcotic drugs and psychotropic substances for medical and scientific use;]

(e) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act and preventing and combating the abuse of narcotic drugs and psychotropic substances and illicit traffic therein.

[1]Ins. by Act 16 of 2014, s. 3 (w.e.f. 1-5-2014).

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or a hierarchy of authorities by such name or names as may be specified in the order for the purpose of exercising such of the powers and functions of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order, and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers and take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers and take such measures.

**5. Officers of Central Government.—**

(1) Without prejudice to the provisions of sub-section (3) of section 4, the Central Government shall appoint a Narcotics Commissioner and may also appoint such other officers with such designations

as it thinks fit for the purposes of this Act.

(2) The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy and production of opium and shall also exercise and perform such other powers and functions as may be entrusted to him by the Central Government.

(3) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government, or, if so directed by that Government, also of the Board or any other authority or officer.

**6. The Narcotic Drugs and Psychotropie Substances Consultative Committee.—**

(1) The Central Government may constitute, by notification in the Official Gazette, an advisory committee to be called “The Narcotic Drugs and Psychotropic Substances Consultative Committee” (hereafter in this section referred to as the Committee) to advise the Central Government on such matters relating to the administration of this Act as are referred to it by that Government from time to time.

(2) The Committee shall consist of a Chairman and such other members, not exceeding twenty, as may be appointed by the Central Government.

(3) The Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do for the efficient discharge of any of its functions, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person (including a non-official) who is not a member of the Committee.

(5) The term of office of, the manner of filling casual vacancies in the offices of and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint a person who is not a member of the Committee as a member of any of its sub-committees, shall be such as may be prescribed by rules made by the Central Government.

**7. Officers of State Government.—**

(1) The State Government may appoint such officers with such designations as it thinks fit for the purposes of this Act.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the State Government, or, if so directed by that Government, also of any other authority or officer.

# 1[CHAPTER II A: NATIONAL FUND FOR CONTROL OF DRUG ABUSE

**7A. National Fund for Control of Drug Abuse.**

(1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide;

(b) the sale proceeds of any property forfeited under Chapter VA;

(c) any grants that may be made by any person or institution;

(d) any income from investment of the amounts credited to the Fund under the aforesaid provisions.

2[(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for—

(a) combating illicit traffic in narcotic drugs, psychotropic substances or controlled substances;

(b) controlling the abuse of narcotic drugs and psychotropic substances;

(c) identifying, treating, rehabilitating addicts;

(d) preventing drug abuse;

(e) educating public against drug abuse;

(f) supplying drugs to addicts where such supply is a medical necessity.

(3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette.]

(4) The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.

(5) The Governing Body shall have the power to regulate its own procedure.

[1]Ins. by Act 2 of 1989, s. 4 (w.e.f. 29-5-1989).
[2]Subs. by Act 9 of 2001, s. 4, for sub-sections (2) and (3) (w.e.f. 2-10-2001).

**7B. Annual report of activities financed under the Fund.**—The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under section 7A during the financial year, together with a statement of accounts.]

# CHAPTER III: PROHIBITION, CONTROL AND REGULATION

**8. Prohibition of certain operations.**—No person shall—

(a) cultivate any coca plant or gather any portion of coca plant; or

(b) cultivate the opium poppy or any cannabis plant; or

(c) produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter State, import into India, export from India or tranship any narcotic drug or psychotropic substance, except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act or the rules or orders made thereunder and in a case where any such provision, imposes any requirement by way of licence, permit or authorisation also in accordance with the terms and conditions of such licence, permit or authorisation:

Provided that, and subject to the other provisions of this Act and the rules made thereunder, the prohibition against the cultivation of the cannabis plant for the production of ganja or the production, possession, use, consumption, purchase, sale, transport, warehousing, import inter-State and export inter-State of ganja for any purpose other than medical and scientific purpose shall take effect only from the date which the Central Government may, by notification in the Official Gazette, specify in this behalf:

[1][Provided further that nothing in this section shall apply to the export of poppy straw for decorative purposes.]

[2][**8A. Prohibition of certain activities relating to property derived from offence.**—No person shall—

(a) convert or transfer any property knowing that such property is derived from an offence committed under this Act or under any other corresponding law of any other country or from an act of participation in such offence, for the purpose of concealing or disguising the illicit origin of the property or to assist any person in the commission of an offence or to evade the legal consequences; or

(b) conceal or disguise the true nature, source, location, disposition of any property knowing that such property is derived from an offence committed under this Act or under any other corresponding law of any other country; or

(c) knowingly acquire, possess or use any property which was derived from an offence committed under this Act or under any other corresponding law of any other country.]

**9. Power of Central Government to permit, control and regulate.—**

(1) Subject to the provisions of section 8, the Central Government may, by rules—

(a) permit and regulate—

(i) the cultivation, or gathering of any portion (such cultivation or gathering being only on account of the Central Government) of coca plant, or the production, possession, sale, purchase, transport, import inter-State, export inter-State, use or consumption of coca leaves;

(ii) the cultivation (such cultivation being only on account of Central Government) of the opium poppy;

(iii) the production and manufacture of opium and production of poppy straw;

3[(iiia) the possession, transport, import inter-State, export inter-State, warehousing, sale, purchase, consumption and use of poppy straw produced from plants from which no juice has been extracted through lancing;]

(iv) the sale of opium and opium derivatives from the Central Government factories for export from India or sale to State Government or to manufacturing chemists;

(v) the manufacture of manufactured drugs (other than prepared opium) but not including manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;

3[(va) the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of essential narcotic drugs:

Provided that where, in respect of an essential narcotic drug, the State Government hasgranted licence or permit under the provisions of section 10 prior to the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014 (16 of 2014), such licence or permit shall continue to be valid till the date of its expiry or for a period of twelve months from such commencement, whichever is earlier.]

[1]Ins. by Act 2 of 1989, s. 5 (w.e.f. 29-5-1989).
[2]Ins. by Act 9 of 2001, s. 5 (w.e.f. 2-10-2001).
[3]Ins. by Act 16 of 2014, s. 4 (w.e.f. 1-5-2014).

(vi) the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances;

(vii) the import into India and export from India and transhipment of narcotic drugs and psychotropic substances;

(b) prescribe any other matter requisite to render effective the control of the Central Governmentover any of the matters specified in clause (a).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) empower the Central Government to fix from time to time the limits within which licences may be given for the cultivation of the opium poppy;

(b) require that all opium, the produce of land cultivated with the opium poppy, shall be delivered by the cultivators to the officers authorised in this behalf by the Central Government;

(c) prescribe the forms and conditions of licences for cultivation of the opium poppy and for production and manufacture of opium; the fees that may be charged therefor; the authorities by which such licences may be granted, withheld, refused or cancelled and the authorities before which appeals against the orders of withholding, refusal or cancellation of licences shall lie;

(d) prescribe that opium shall be weighed, examined and classified according to its quality and consistence by the officers authorised in this behalf by the Central Government in the presence of the cultivator at the time of delivery by the cultivator;

(e) empower the Central Government to fix from time to time the price to be paid to the cultivators for the opium delivered;

(f) provide for the weighment, examination and classification, according to the quality and consistence, of the opium received at the factory and the deductions from or additions (if any) to the standard price to be made in accordance with the result of such examination; and the authorities by which the decisions with regard to the weighment, examination, classification, deductions or additions shall be made and the authorities before which appeals against such decisions shall lie;

(g) require that opium delivered by a cultivator, if found as a result of examination in the Central Government factory to be adulterated, may be confiscated by the officers authorised in this behalf;

(h) prescribe the forms and conditions of licences for the manufacture of manufactured drugs, the authorities by which such licences may be granted and the fees that may be charged therefor;

[1][(ha) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of essential narcotic drugs, the authorities by which such licence or permit may be granted and the fees that may be charged therefor;]

(i) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances, the authorities by which such licences or permits may be granted and the fees that may be charged therefor;

(j) prescribe the ports and other places at which any kind of narcotic drugs or psychotropic substances may be imported into India or exported from India or transhipped; the forms and conditions of certificates, authorisations or permits, as the case may be, for such import, export or transhipment; the authorities by which such certificates, authorisations or permits may be granted and the fees that may be charged therefor.

[1]Ins. by Act 16 of 2014, s. 4 (w.e.f. 1-5-2014).

**1[9A. Power to control and regulate controlled substances.—**

(1) If the Central Government is of the opinion that, having regard to the use of any controlled substance in the production or manufacture ofany narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the power conferred by sub-section (1), an order made thereunder may provide for regulating by licences, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance.]

**10. Power of State Government to permit, control and regulate.—**

(1) Subject to the provisions of section 8, the State Government may, by rules—

(a) permit and regulate—

(i) the possession, transport, import inter-State, export inter-State, warehousing, sale, purchase, consumption and use of poppy straw 2[except poppy straw produced from plants from which no juice has been extracted through lancing];

(ii) the possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of opium;

(iii) the cultivation of any cannabis plant, production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of cannabis (excluding charas);

(iv) the manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;

(v) the possession, transport, purchase, sale, import inter-State, export inter-State, use or consumption of 3[manufactured drugs (other than prepared opium and essential narcotic drugs)] and of coca leaf and any preparation containing any manufactured drug;

(vi) the manufacture and possession of prepared opium from opium lawfully possessed by an addict registered with the State Government on medical advice for his personal consumption:

Provided that save in so far as may be expressly provided in the rules made under sub-clauses (iv)and (v), nothing in section 8 shall apply to the import inter-State, export inter-State, transport, possession, purchase, sale, use or consumption of manufactured drugs which are the property and inthe possession of the Government:

Provided further that such drugs as are referred to in the preceding proviso shall not be sold or otherwise delivered to any person who, under the rules made by the State Government under the aforesaid sub-clauses, is not entitled to their possession;

(b) prescribe any other matter requisite to render effective the control of the State Government over any of the matters specified in clause (a).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) empower the State Government to declare any place to be a warehouse wherein it shall be the duty of the owners to deposit all such poppy straw as is legally imported inter-State and is intended for export inter-State or export from India; to regulate the safe custody of such poppy straw warehoused and the removal of such poppy straw for sale or export inter-

State or export from India; to levy fees for such warehousing and to prescribe the manner in which and the period after which the poppy straw warehoused shall be disposed of in default of payment of fees;

(b) provide that the limits within which licences may be given for the cultivation of any cannabis plant shall be fixed from time to time by or under the orders of the State Government;

(c) provide that only the cultivators licenced by the prescribed authority of the State Government shall be authorised to engage in cultivation of any cannabis plant;

(d) require that all cannabis, the produce of land cultivated with cannabis plant, shall be delivered by the cultivators to the officers of the State Government authorised in this behalf;

(e) empower the State Government to fix from time to time, the price to be paid to the cultivators for the cannabis delivered;

(f) prescribe the forms and conditions of licences or permits for the purposes specified in sub-clauses (i) to (vi) of clause (a) of sub-section (1) and the authorities by which such licences or permits may be granted and the fees that may be charged therefor.

[1]Ins. by Act 2 of 1989, s. 6 (w.e.f. 29-5-1989).

[2]Ins. by Act 16 of 2014, s. 5 (w.e.f. 1-5-2014).

[3]Subs. by s. 5, ibid., for “manufactured drugs other than prepared opium” (w.e.f. 1-5-2014).

**11. Narcotic drugs and psychotropic substances, etc., not liable to distress or attachment.**— Notwithstanding anything to the contrary contained in any law or contract, no narcotic drug, psychotropic substance, coca plant, the opium poppy or cannabis plant shall be liable to be distrained or attached by any person for the recovery of any money under any order or decree of any court or authority or otherwise.

**12. Restrictions over external dealings in narcotic drugs and psychotropic substances.** —No person shall engage in or control any trade whereby a narcotic drug or psychotropic substance is obtained outside India and supplied to any person outside India save with the previous authorisation of the Central Government and subject to such conditions as may be imposed by that Government in this behalf.

**13. Special provisions relating to coca plant and coca leaves for use in the preparation of flavouring agent.**—Notwithstanding anything contained in section 8, the Central Government may permit, with or without conditions, and on behalf of Government, the cultivation of any coca plant or gathering of any portion thereof or the production, possession, sale, purchase, transport, import inter- State, export inter-State or import into India of coca leaves for use in the preparation of any flavouring agent which shall not contain any alkaloid and to the extent necessary for such use.

**14. Special provision relating to cannabis.**—Notwithstanding anything contained in section 8, Government may, by general or special order and subject to such conditions as may be specified in such order, allow cultivation of any cannabis plant for industrial purposes only of obtaining fibre or seed or for horticultural purposes.

# CHAPTER IV: OFFENCES AND PANALTIES

[1][**15. Punishment for contravention in relation to poppy straw.**—Whoever, in contravention of any provisions of this Act or any rule or order made or condition of a licence granted thereunder, produces, possesses, transports, imports inter-State, exports inter-State, sells, purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [2][one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[1]Subs. by Act 9 of 2001, s. 6, for sections 15 to 18 (w.e.f. 2-10-2001).

[2]Subs. by Act 16 of 2014, s. 6, for "six months" (w.e.f. 1-5-2014).

**16. Punishment for contravention in relation to coca plant and coca leaves.**—Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates any coca plant or gathers any portion of a coca plant or produces, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses coca leaves shall be punishable with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees.

**17. Punishment for contravention in relation to prepared opium.**—Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses prepared opium shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [1][one year], or with fine which may extend to ten thousand rupees, or with both; or

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; or

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

**18. Punishment for contravention in relation to opium poppy and opium.**—Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses opium shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees;

(c) in any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees.]

[1]Subs. by Act 16 of 2014, s. 7, for "six months" (w.e.f. 1-5-2014).

[2]Subs. by s. 8, ibid., for "six months" (w.e.f. 1-5-2014).

**19. Punishment for embezzlement of opium by cultivator.**—Any cultivator licensed to cultivate the opium poppy on account of the Central Government who embezzles or otherwise illegally disposes of the opium produced or any part thereof, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

**20. Punishment for contravention in relation to cannabis plant and cannabis.**—Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder,—

(a) cultivates any cannabis plant; or

(b) produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable,—

1[(i)] where such contravention relates to clause (a) with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh

rupees; and

(ii) where such contravention relates to sub-clause (b),—

(A) and involves small quantity, with rigorous imprisonment for a term which may extend to 2[one year], or with fine which may extend to ten thousand rupees, or with both;

(B) and involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(C) and involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]

**3[21. Punishment for contravention in relation to manufactured drugs and preparations.** — Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to 4[one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to 10 years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than 10 years but which may extend to 20 years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to 2 lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding 2 lakh

rupees.

**22. Punishment for contravention in relation to psychotropic substances.**—Whoever, incontravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [5][one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[1]Subs. by Act 9 of 2001, s. 7, for sub-clauses (i) and (ii) (w.e.f. 2-10-2001).

[2]Subs. by Act 16 of 2014, s. 9, for “six months” (w.e.f. 1-5-2014).

[3]Subs. by Act 9 of 2001, s. 8, for sections 21 to 23 (w.e.f. 2-10-2001).

[4]Subs. by Act 16 of 2014, s. 10, for “six months” (w.e.f. 1-5-2014).

[5]Subs. by s. 11, ibid., for “six months” (w.e.f. 1-5-2014).

**23. Punishment for illegal import into India, export from India or transhipment of narcotic drugs and psychotropic substances.**—Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence or permit granted or certificate or authorisation issued thereunder, imports into India or exports from India or transhipsany narcotic drug or psychotropic substance shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [1][one year], or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

**24. Punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12.**—Whoever engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorisation of the Central Government or otherwise than in accordance with the condition (if any) of such authorisation granted under section 12, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[2][**25. Punishment for allowing premises, etc., to be used for commission of an offence.**—Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.]

[3][**25A. Punishment for contravention of orders made under section 9A.**—If any person contravenes an order made under section 9A, he shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding one lakh rupees.]

[1]Subs. by Act 16 of 2014, s. 12, for “six months” (w.e.f. 1-5-2014).

[2]Subs. by Act 9 of 2001, s. 9, for section 25 (w.e.f. 2-10-2001).

[3]Ins. by Act 2 of 1989, s. 7 (w.e.f. 29-5-1989).

**26. Punishment for certain acts by licensee or his servants.**—If the holder of any licence, permit or authorisation granted under this Act or any rule or order made thereunder or any person in his employ and acting on his behalf—

(a) omits, without any reasonable cause, to maintain accounts or to submit any return in accordance with the provisions of this Act, or any rule made thereunder;

(b) fails to produce without any reasonable cause such licence, permit or authorisation on demand of any officer authorised by the Central Government or State Government in this behalf;

(c) keeps any accounts or makes any statement which is false or which he knows or has reason to believe to be incorrect; or

(d) wilfully and knowingly does any act in breach of any of the conditions of licence, permit or authorisation for which a penalty is not prescribed elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

[1]**[27. Punishment for consumption of any narcotic drug or psychotropic substance.** —Whoever, consumes any narcotic drug or psychotropic substance shall be punishable,—

(a) where the narcotic drug or psychotropic substance consumed is cocaine, morphine, diacetyl-morphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and

(b) where the narcotic drug or psychotropic substance consumed is other than those specified in or under clause (a), with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.]

[2]**[27A. Punishment for financing illicit traffic and harbouring offenders.**—Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of [3][clause (viiib) of section 2] or harbours any person engaged in any of the aforementioned

activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]

[4][27B. Punishment for contravention of section 8A.—Whoever contravenes the provision of section 8A shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine.]

[1]Subs. by Act 9 of 2001, s. 10, for section 27 (w.e.f. 2-10-2001).

[2]Ins. by Act 2 of 1989, s. 8 (w.e.f. 29-5-1989).

[3]Subs. by Act 48 of 2021, s. 2, for "clause (viiia) of section 2" (w.e.f. 1-5-2014).

[4]Ins. by Act 16 of 2014, s. 13 (w.e.f. 1-5-2014).

**28. Punishment for attempts to commit offences.**—Whoever attempts to commit any offence punishable under this Chapter or to cause such offence to be committed and in such attempt does any act towards the commission of the offence shall be punishable with the punishment provided for the offence.

**29. Punishment for abetment and criminal conspiracy.—**

(1) Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.

(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—

(a) would constitute an offence if committed within India; or

(b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same

as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.

**30. Preparation.**—If any person makes preparation to do or omits to do anything which constitutes an offence punishable under any of the provisions of [1][sections 19, 24 and 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance and from the circumstances of the case] it may be reasonably inferred that he was determined to carry out his intention to commit the offence but had been prevented by circumstances independent of his will, he shall be punishable with rigorous imprisonment for a term which shall not be less than one-half of the minimum term (if any), but which may extend to one-half of the maximum term, of imprisonment with which he would have been punishable in the event of his having committed such offence, and also with fine which shall not be less than one-half of the minimum amount (if any), of fine with which he would have been punishable, but which may extend to one-half of the maximum amount of fine with which he would have ordinarily (that is to say in the absence of special reasons) been punishable, in the event aforesaid:

Provided that the court may, for reasons to be recorded in the Judgment, impose a higher fine.

**[2][31. Enhanced punishment for offences after previous conviction.—**

(1) If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under this Act is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under this Act with the same amount of punishment shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which may extend to [3][one and one-half times of the maximum term] of imprisonment, and also be liable to fine which shall extend to [4][one and one-half times of the maximum amount] of fine.

(2) Where the person referred to in sub-section (1) is liable to be punished with a minimum term of imprisonment and to a minimum amount of fine, the minimum punishment for such person shall be [5][one and one-half times of the minimum term] of imprisonment and [6][one and one-half times of theminimum amount] of fine:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding the fine for which a person is liable.

(3) Where any person is convicted by a competent court of criminal jurisdiction outside India under any corresponding law, such person, in respect of such conviction, shall be dealt with for the purposes of sub-sections (1) and (2) as if he had been convicted by a court in India.]

**[7][31A. Death penalty for certain offences after previous conviction.—**

(1) Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under [8][section 19, section 24, section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance], is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

(a) engaging in the production, manufacture, possession, transportation, import into India, export from India or transhipment, of the narcotic drugs or psychotropic substances specified under column (1) of the Table below and involving the quantity which is equal to or more than the quantity indicated against each such drug or substance, as specified in column (2) of the said Table:

[1]Subs. by Act 9 of 2001, s. 11, for certain words, figures and brackets (w.e.f. 2-10-2001).
[2]Subs. by s. 12, ibid., for section 31 (w.e.f. 2-10-2001).
[3]Subs. by Act 16 of 2014, s. 14, for “one-half of the maximum term” (w.e.f. 1-5-2014).
[4]Subs. by s. 14, ibid., for “one-half of the maximum amount” (w.e.f. 1-5-2014).
[5]Subs. by s. 14, ibid., for “one-half of the minimum term” (w.e.f. 1-5-2014).
[6]Subs. by s. 14, ibid., for “one-half of the minimum amount” (w.e.f. 1-5-2014).
[7]Ins. by Act 2 of 1989, s. 9 (w.e.f. 29-5-1989).
[8]Subs. by Act 9 of 2001, s. 13, for “section 15 to section 25 (both inclusive) or section 27A” (w.e.f. 2-10-2001).

**TABLE**

| | **Particulars of narcotic drugs/psychotropic substances** | **Quantity** |
|---|---|---|
| | (1) | (2) |

| | Particulars of narcotic drugs/psychotropic substances | Quantity |
|---|---|---|
| (i) | Opium | 10 kgs. |
| (ii) | Morphine | 1 kg. |
| (iii) | Heroin | 1 kg |
| (iv) | Codeine | 1 kg |
| (v) | Thebaine | 1 kg. |
| (vi) | Cocaine | 500 grams |
| (vii) | Hashish | 20 kgs. |
| (viii) | Any mixture with or without any neutral material of any of the | 1[lesser of the quantity above drugs between the quantities given against the respective narcotic drugs or psychotropic substances mentioned above forming part of the mixture] |
| (ix) | LSD, LSD-25 (+) - N, N-Diethyllyser gamide (d-lysergic acid diethylamide) | 500 grams |
| (x) | THC (Tetrahydrocannabinols, the following Isomers: 6a (10a), 6a (7),7,8,9,10,9 (11) and their stereochemical variants) | 500 grams |
| (xi) | Methamphetamine(+ )-2-Methylamine-l-Phenylpropane | 1,500 gram |
| (xii) | Methaqualone (2-Methyl-3-0-tolyl-4-(3h—)quinazolinone) | 1,500 gram |
| (xiii) | Amphetamine (+)-2-amino-1-phenylpropane | 1,500 gram |

| | Particulars of narcotic drugs/psychotropic substances | Quantity |
|---|---|---|
| (xiv) | Salts and preparations of the psychotropic substances mentioned in (ix) to (xiii) | 1,500 gram; |

(b) financing, directly or indirectly, any of the activities specified in clause (a), [2][shall be punished with punishment which shall not be less than the punishment specified in section 31 or with death].

(2) Where any person is convicted by a competent court of criminal jurisdiction outside India under any law corresponding to the provisions of [3][section 19, section 24 or section 27A and for offences involving commercial quality of any narcotic drug or psychotropic substance], such person, in respect of such conviction, shall be dealt with for the purposes of sub-section (1) as if he had been convicted by a court in India.]

[1]Subs. by Act 9 of 2001, s. 13, for "1,500 grams" (w.e.f. 2-10-2001).

[2]Subs. by Act 16 of 2014, s. 15, for "shall be punishable with death" (w.e.f. 1-5-2014).

[3]Subs. by Act 9 of 2001, s. 13, for certain words, figures and brackets (w.e.f. 2-10-2001).

**32. Punishment for offence for which no punishment is provided.**—Whoever contravenes any provision of this Act or any rule or order made, or any condition of any licence, permit or authorisation issued thereunder for which no punishment is separately provided in this Chapter, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

[1]**[32A. No suspension, remission or commutation in any sentence awarded under this Act.**— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted.]

[2]**[32B. Factors to be taken into account for imposing higher than the minimum punishment.**— Where a minimum term of imprisonment or amount of fine is prescribed for any offence committed under this Act, the court may, in addition to such factors as it may deem fit,

take into account the following factors for imposing a punishment higher than the minimum term of imprisonment or amount of fine, namely:—

(a) the use or threat of use of violence or arms by the offender;

(b) the fact that the offender holds a public office and that he has taken advantage of that office in committing the offence;

(c) the fact that the minors are affected by the offence or the minors are used for the commission of an offence;

(d) the fact that the offence is committed in an educational institution or social service facility or in the immediate vicinity of such institution or faculty or in other place to which school children and students resort for educational, sports and social activities;

(e) the fact that the offender belongs to organised international or any other criminal group which is involved in the commission of the offence; and

(f) the fact that the offender is involved in other illegal activities facilitated by commission of the offence.

[1]Ins. by Act 2 of 1989, s. 10 (w.e.f. 29-5-1989).

[2]Ins. by Act 9 of 2001, s. 14 (w.e.f. 2-10-2001).

**33. Application of section 360 of the Code of Criminal Procedure, 1973 and of the Probation of Offenders Act, 1958.**—Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974) or in the Probation of Offenders Act, 1958 (20 of 1958) shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age or that the offence for which such person is convicted is punishable under section 26 or section 27.

**34. Security for abstaining from commission of offence.—**

(1) Whenever any person is convicted of an offence punishable under any provision of Chapter IV and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of any offence under this Act, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from commission of any offence under Chapter IV

during such period not exceeding three years as it thinks fit to fix.

(2) The bond shall be in such form as may be prescribed by the Central Government and the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate court or by the High Court or Sessions Judge when exercising the powers of revision.

**35. Presumption of culpable mental state.—**

(1) In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

**Explanation.—**In this section "culpable mental state" includes intention motive, knowledge of a fact and belief in, or reason to believe, a fact.

(2) For the purpose of this section , a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.

[1]**[36. Constitution of Special Court.—**

(1) The Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Court as may be necessary for such area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single Judge who shall be appointed by the Government with the concurrence of the Chief Justice of the High Court.

**Explanation.**—In this sub-section, "High Court" means the High Court of the State in which the Sessions Judge or the Additional Sessions Judge of a Special Court was working immediately before his appointment as such Judge.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge.

[1]Subs. by Act 2 of 1989, s. 11, for section 36 (w.e.f. 29-5-1989).

**[1][36A. Offences triable by Special Courts.—**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that in cases which are triable by the Special Court where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to an accused person in such case who has been forwarded to him under that section;

(d) a Special Court may, upon perusal of police report of the facts constituting an offence under this Act or upon complaint made by an officer of the Central Government or a State Government authorised in his behalf, take cognizance of that offence without the accused being committed to it

for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974), and the High Court may exercise such powers including the power under cluase (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section included also a reference to a “Special Court” constituted under section 36.

(4) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) thereof to “ninety days”, where they occur, shall be construed as reference to “one hundred and eighty days”: Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offences punishable under this Act with imprisonment for a term of not more than three years may be tried summarily.]

[1]Subs. by Act 9 of 2001, s. 15, for section 36A (w.e.f. 2-10-2001).

**36B. Appeal and revision.**—The High Court may exercise, so for as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

**36C. Application of Code to proceedings before a Special Court.**—Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and

the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

**[1][36D. Transitional provisions.—**

(1) Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989), which is triable by a Special Court shall, until a Special Court is constituted under section 36, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), be tried by a Court of Session.

(2) Where any proceedings in relation to any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989) are pending before a Court of Session, then, notwithstanding anything contained in sub-section (1), such proceeding shall be heard and disposed of by the Court of Session:

Provided that nothing contained in this sub-section shall affect the power of the High Court under section 407 of the Code of Criminal Procedure, 1973 (2 of 1974) to transfer any case or class of cases taken cognizance by a Court of Session under sub-section (1).]

**[2][37. Offences to be cognizable and non-bailable.—**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [3][offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there arereasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time

being in force on granting of bail.].

[1]Subs. by Act 9 of 2001, s. 16, for section 36D (w.e.f. 2-10-2001).

[2]Subs. by Act 2 of 1989, s. 12, for section 37 (w.e.f. 29-5-1989).

[3]Subs. by Act 9 of 2001, s. 17, for "a term of imprisonment of five years or more under this Act" (w.e.f. 2-10-2001).

**38. Offences by companies.—**

(1) Where an offence under Chapter IV has been committed by a company, every person, who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punishedaccordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under Chapter IV has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

**39. Power of court to release certain offenders on probation.—**

(1) When any addict is found guilty of an offence punishable under section 27 [1][or for offences relating to small quantity of any narcotic drug or psychotropic substance] and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical

or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognised by Government and on his entering into a bond in the form prescribed by the Central Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV.

(2) If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under sub-section (1), that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Central Government, with or without sureties, for abstaining from the commission of any offence under Chapter IV during such period not exceeding three years as the court may deem fit to specify or on hisfailure so to abstain, to appear before the court and receive sentence when called upon during such period.

[1]Ins. by Act 9 of 2001, s. 18 (w.e.f. 2-10-2001).

**40. Power of court to publish names, place of business, etc., of certain offenders.—**

(1) Where any person is convicted of any of the offences punishable under section 15 to section 25 (both inclusive),section 28, section 29 or section 30, it shall be competent for the court convicting the person to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person in such newspapers or in such manner as the court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such appeal, having been preferred, has been disposed of.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the convicted person as if it were a fine imposed by the court.

# CHAPTER V: PROCEDURE

**[1][41. Power to issue warrant and authorisation.—**

(l) A Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed:

(2) Any such officer of gazetted rank of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including the para-military forces or the armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, police or any other department of a StateGovernment as is empowered in this behalf by general or special order of the State Government if he has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him but superior in rank to a peon, sepoy or a constable to arrest such a person or search a building, conveyance or place whether by day or by night or himself arrest such a person or search a building, conveyance or place.

(3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorised the arrest or search or the officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 42.

[1]Subs. by Act 9 of 2001, s. 19, for sections 41 to 43 (w.e.f. 2-10-2001).

**42. Power of entry, search, seizure and arrest without warrant or authorisation.—**

(l) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intellegence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,—

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation unde this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

1[Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector:

Provided further that] if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

**43. Power of seizure and arrest in public place.**—Any officer of any of the departments mentioned in section 42 may—

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

**Explanation.**—For the purposes of this section, the expression “public place” includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public.]

**44. Power of entry, search, seizure and arrest in offences relating to coca plant, opium poppy and cannabis plant.**—The provisions of sections 41, 42 and 43, shall so far as may be, apply in relation to the offence punishable under Chapter IV and relating to coca plant, the opium poppy or cannabis plant and for this purpose references in those sections to narcotic drugs, or psychotropic substance 2[or controlled substance], shall be construed as including references to coca plant, the opium poppy and cannabis plant.

**45. Procedure where seizure of goods liable to confiscation not practicable.**—Where it is not practicable to seize any goods (including standing crop) which are liable to confiscation under this Act, any officer duly authorised under section 42 may serve on the owner or person in possession of the goods, an order that he shall not remove, part with or otherwise deal with the goods except with the previous permission of such officer.

[1]Subs. by Act 16 of 2014, s. 16, for "Provided that" (w.e.f. 1-5-2014).

[2]Ins. by Act 9 of 2001, s. 20 (w.e.f. 2-10-2001).

**46. Duty of land holder to give information of illegal cultivation.**—Every holder of land shall give immediate information to any officer of the Police or of any of the departments mentioned in section 42 of all the opium poppy, cannabis plant or coca plant which may be illegally cultivated within his land and every such holder of land who knowingly neglects to give such information, shall be liable to punishment.

**47. Duty of certain officers to give information of illegal cultivation.**—Every officer of the Government and every panch, sarpanch and other village officer of whatever description shall give immediate information to any officer of the Police or of any of the departments mentioned in section 42 when it may come to his knowledge that any land has been illegally cultivated with the opium poppy, cannabis plant or coca plant, and every such officer of the Government, panch, sarpanch and other village officer who neglects to give such information shall be liable to punishment.

**48. Power of attachment of crop illegally cultivated.**—Any Metropolitan Magistrate, Judicial Magistrate of the first class or any Magistrate specially empowered in this behalf by the State Government [1][or any officer of a gazetted rank empowered under section 42] may order attachment of any opium poppy, cannabis plant or coca plant which he has reason to believe to have been illegally cultivated and while doing so may pass such order (including an order to destroy the crop) as he thinks fit.

**49. Power to stop and search conveyance.**—Any officer authorised under section 42, may, if he has reason to suspect that any animal or conveyance is, or is about to be, used for the transport of any narcotic drug or psychotropic substance [2][or controlled substance], in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened at any time, stop such animal or conveyance, or, in the case of an aircraft, compel it to land and—

(a) rummage and search the conveyance or part thereof;

(b) examine and search any goods on the animal or in the conveyance;

(c) if it becomes necessary to stop the animal or the conveyance, he may use all lawful means for stopping it, and where such means fail, the animal or the conveyance may be fired upon.

**50. Conditions under which search of persons shall be conducted.—**

(1) When any officer duly authorised under section 42 is about to search any person under the provisions of section 41, section 42 or section 43, he shall, if such person so requires, take such person without unnecessary delay to nearest Gazetted Officer of any of the departments mentioned in section 42 or to the nearest Magistrate.

(2) If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in sub-section (1).

(3) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) No female shall be searched by anyone excepting a female.

3[(5) When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest Gazetted Officer or Magistrate, proceed to search the person as provided under section100 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.]

[1]Ins. by Act 2 of 1989, s. 13 (w.e.f. 29-5-1989).

[2]Ins. by Act 9 of 2001, s. 21 (w.e.f. 2-10-2001).

[3]Ins. by s. 22, ibid. (w.e.f. 2-10-2001).

[1]**[50A. Power to undertake controlled delivery.**—The Director General of Narcotics Control Bureau constituted under sub-section (3) of section 4 or any other officer authorised by him in this behalf may, notwithstanding anything contained in this Act, undertake controlled delivery of any consignment to—

(a) any destination in India;

(b) a foreign country, in consultation with the competent authority of such foreign country to which such consignment is destined, in such manner as may be prescribed.]

**51. Provisions of the code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and seizures.**—The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.

**52. Disposal of persons arrested and articles seized.—**

(1) Any officer arresting a person under section 41, section 42, section 43 or section 44 shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested and article seized under warrant issued under sub-section (1) of section 41 shall be forwarded without unnecessary delay to the Magistrate by whom the warrant was issued.

(3) Every person arrested and article seized under sub-section (2) of section 41, section 42, section 43 or section 44 shall be forwarded without unnecessary delay to—

(a) the officer-in-charge of the nearest police station, or

(b) the officer empowered under section 53.

(4) The authority or officer to whom any person or article is forwarded under sub-section (2) or sub-section (3) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

[2]**[52A. Disposal of seized narcotic drugs and psychotropic substances.—**

[3][(1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.]

(2) Where any [4][narcotic drugs, psychotropic substances, controlled substances or conveyances] has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such [4][narcotic drugs, psychotropic substances, controlled substances or conveyances] containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the [4][narcotic drugs, psychotropic substances, controlled substances or conveyances] or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the 4[narcotic drugs, psychotropic substances, controlled substances or conveyances] in any proceedings under this Act and make an application, to any Magistrate for the purpose of—

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such magistrate, photographs of [5][such drugs, substances or conveyances] and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1972) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the innventory, the photographs of [6][narcotic drugs, psychotropic substances, controlled substances or conveyances] and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.]

[1]Ins. by Act 9 of 2001, s. 23 (w.e.f. 2-10-2001).

[2]Ins. by Act 2 of 1989, s. 14 (w.e.f. 29-5-1989).

[3]Subs. by Act 16 of 2014, s. 17, for sub-section (1) (w.e.f. 1-5-2014).

[4]Subs. by s. 17, ibid., for "narcotic drug or psychotropic substance" (w.e.f. 1-5-2014)

[5]Subs. by s. 17, ibid., for "such drugs or substances" (w.e.f. 1-5-2014).

[6]Subs. by Act 16 of 2014, s.17, for "narcotic drugs or psychotropic substances" (w.e.f. 1-5-2014).

**53. Power to invest officers of certain departments with powers of an officer-in-charge of a police station.—**

(1) The Central Government, after consultation with the State Government, may, by notification published in the Official Gazette, invest any officer of the department of central excise, narcotics, customs, revenue intelligence [1][or any other department of the Central Government including para-military forces or armed forces] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of the offences under this Act.

(2) The State Government may, by notification published in the Official Gazette, invest any officer of the department of drugs control, revenue or excise [2][or any other department] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of offences under this Act.

[3]**[53A. Relevancy of statements under certain circumstances.—**

(1) A statement made and signed by a person before any officer empowered under section 53 for the investigation of offences, during the course of any inquiry or proceedings by such officer, shall be relevant for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(a) when the person who made the statement is dead or connot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement

should be admitted in evidence in the interest of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceedings under this Act or the rules or orders made thereunder, other than a proceeding before a court, as they apply in relation to a proceeding before a court.]

[4][**54. Presumption from possession of illicit articles.**—In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under this Act in respect of—

(a) any narcotic drug or psychotropic substance or controlled substance;

(b) any opium poppy, cannabis plant or coca plant growing on any land which he has cultivated;

(c) any apparatus specially designed or any group of utensils specially adopted for the manufacture of any narcotic drug or psychotropic substance or controlled substance; or

(d) any materials which have undergone any process towards the manufacture of a narcotic drug or psychotropic substance or controlled substance, or any residue left of the materials from which any narcotic drug or psychotropic substance or controlled substance has been manufactured, for the possession of which he fails to account satisfactorily].

[1]Subs. by Act 9 of 2001, s. 24, for "or Border Security Force" (w.e.f. 2-10-2001).

[2]Ins. by s. 24, ibid. (w.e.f. 2-10-2001).

[3]Ins. by Act 2 of 1989, s. 15 (w.e.f. 29-5-1989).

[4]Subs. by Act 9 of 2001, s. 25, for section 54 (w.e.f. 2-10-2001).

**55. Police to take charge of articles seized and delivered.**—An officer-in-charge of a police station shall take charge of and keep in safe custody, pending the orders of the Magistrate, all articles seized under this Act within the local area of that police station and which may be delivered to him, and shall allow any officer who may accompany such articles to the police station or who may be deputed for the purpose, to affix his seal to such articles or to take samples of and from them and all samples so taken shall also be sealed with a seal of the officer-in-charge of the police station.

**56. Obligation of officers to assist each other.**—All officers of the several departments mentioned in section 42 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

**57. Report of arrest and seizure.**—Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

[1]**[57A. Report of seizure of property of the person arrested by the notified officer.**—Whenever any officer notified under section 53 makes an arrest or seizure under this Act, and the provisions of Chapter VA apply to any person involved in the case of such arrest or seizure, the officer shall make a report of the illegally acquired properties of such person to the jurisdictional competent authority within ninety days of the arrest or seizure].

**58. Punishment for vexatious entry, search, seizure or arrest.—**

(1) Any person empowered under section 42 or section 43 or section 44 who—

(a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place;

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic drug or psychotropic substance or other article liable to be confiscated under this Act, or of seizing any document or other article liable to be seized under section 42, section 43 or section 44; or

(c) vexatiously and unnecessarily detains, searches or arrests any person, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search being made under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

**59. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—**

(1) Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

2[(2) Any officer on whom any duty has been imposed by or under this Act or any person who has been given the custody of—

(a) any addict; or

(b) any other person who has been charged with an offence under this Act, and who wilfully aids in, or connives at, the contravention of any provision of this Act or any rule or order made thereunder, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**Explanation.**—For the purposes of this sub-section, the expression "officer" includes any person employed in a hospital or institution maintained or recognised by the Government or a local authority under section 64A for providing de-addiction treatment.]complaint in writing made with the previous sanction of the Central Government, or as the case may be, the State Government.

(3) No court shall take cognizance of any offence under sub-section (1) or sub-section (2) except on a

[1]Ins. by Act 16 of 2014, s. 18 (w.e.f. 1-5-2014).
[2]Subs. by Act 2 of 1989, s. 16, for sub-section (2) (w.e.f. 29-5-1989).

**60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.—**

1[(1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.]

(2) Any narcotic drug or psychotropic substance 2[or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance 2[or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance 2[or controlled substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance 2[or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.

**61. Confiscation of goods used for concealing illicit drugs or substances.**—Any goods used for concealing any 3[narcotic drug, psychotropic substance or controlled substance] which is liable to confiscation under this Act shall also be liable to confiscation.

**Explanation.**—In this section “goods” does not include conveyance as a means of transport.

**62. Confiscation of sale proceeds of illicit drugs or substances.**—Where any 4[narcotic drug, psychotropic substance or controlled substance] is sold by a person having knowledge or reason to believe that the drug or substance is liable to confiscation under this Act, the sale proceeds thereof shall also be liable to confiscation.

**63. Procedure in making confiscations.—**

(1) In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any article or thing seized under this Act is liable to confiscation under section 60 or section 61 or section 62 and, if it decides that the article is so liable, it may order confiscation accordingly.

(2) Where any article or thing seized under this Act appears to be liable to confiscation under section 60 or section 61 or section 62, but the person who committed the offence in connection

therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided further that if any such article or thing, other than a narcotic drug, psychotropic substance [5][controlled substance], the opium poppy, coca plant or cannabis plant is liable to speedy and natural decay, or if the court is of opinion that its sale would be for the benefit of its owner, it may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

[1]Subs. by Act 9 of 2001, s. 26, for sub-section (1) (w.e.f. 2-10-2001).

[2]Ins. by s. 26, ibid. (w.e.f. 2-10-2001).

[3]Subs. by s. 27, ibid., for “narcotic drug or psychotropic substance” (w.e.f. 2-10-2001).

[4]Subs. by s. 28, ibid., for “narcotic drug or psychotropic substance” (w.e.f. 2-10-2001).

[5]Ins. by s. 29, ibid. (w.e.f. 2-10-2001).

**64. Power to tender immunity from prosecution.—**

(1) The Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or order made thereunder it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made.

(3) If it appears to the Central Government or, as the case may be, the State Government, that any person to whom immunity has been tendered under this section has not complied with the

conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government or, as the case may be, the State Government, may record a finding to that effect and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.

[2][**64A. Immunity from prosecution to addicts volunteering for treatment.**— Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances: Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.]

**65. [Power to make rules regulating disposal of confiscated articles and rewards].** —Omitted by the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1989 (2 of 1989), s. 18(w.e.f. 29-5-1989).

**66. Presumption as to documents in certain cases.**—Where any document—

(i) is produced or furnished by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law, or

(ii) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed by the Central Government) in the course of investigation of any offence under this Act alleged to have been committed by a person, and such document is tendered in any prosecution under this Act in evidence against him, or against him and any other person who is tried jointly with him, the court shall—

(a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reason ably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person’s handwriting; and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;

(c) examine any person acquainted with the facts and circumcontrary is proved, the truth of the contents of such document.

[1]Sub-section (3) omitted by Act 9 of 2001, s. 29 (w.e.f. 2-10-2001).

[2]Subs. by s. 30, ibid., for section 64A (w.e.f. 2-10-2001).

**67. Power to call for information, etc.**—Any officer referred to in section 42 who is authorised in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provision of this Act,—

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to the enquiry;

(c) examine any person acquainted with the facts and circumstances of the case.

**68. Information as to commission of offences.**—No officer acting in exercise of powers vested in him under any provision of this Act or any rule or order made thereunder shall be compelled to say whence he got any information as to the commission of any offence.

# [1][CHAPTER VA: [2][FORFEITURE OF ILLEGALLY ACQUIRED PROPERTY]

**68A. Application.—**

(1) The provisions of this Chapter shall apply only to the persons specified in sub-section (2).

(2) The persons referred to in sub-section (1) are the following, namely:—

(a) every person who has been convicted of an offence punishable under this Act with imprisonment for a term of [3][ten] years or more;

(b) every person who has been convicted of a similar offence by a competent court of criminal jurisdiction outside India;

(c) every person in respect of whom an order of detention has been made under the Prevention of Ilicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (46 of 1988), or under the Jammu and Kashmir Prevention of Ilicit Traffic in Narcotic Drugs and Psychotropic Substances Act,1988;

[4][(cc) every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act with imprisonment for a term of ten years or more, and every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of a similar offence under any corresponding law of any other country.] Provided that such order of detention has not been revoked on the report of the Advisory Board constituted under the said Acts or such order of detention has not been set aside by a court of competent jurisdiction;

(d) every person who is a relative of a person referred to in clause (a) or clause (b) or clause (c) [4][or clause (cc)];

(e) every associate of a person referred to in clause (a) or clause (b) or clause (c) 4[or clause (cc)];

(f) any holder (hereafter in this clause referred to as the “present holder”) of any property which was at any time previously held by a person referred to in clause (a) or clause (b) or clause (c) 4[or clause (cc)]; unless the present holder or, as the case may be, any one who held such property after such person and before the present holder, is or was a transferee in good faith for adequate consideration.

[1]Ins. by Act 2 of 1989, s. 19 (w.e.f. 29-5-1989).

[2]Subs. by Act 16 of 2014, s. 19, for “FORFEITURE OF PROPERTY DERIVED FROM, OR USED, IN ILLICIT TRAFFIC” (w.e.f. 1-5-2014).

[3]Subs. by Act 9 of 2001, s. 31, for “five” (w.e.f. 2-10-2001).

[4]Ins. by s. 31, ibid. (w.e.f. 2-10-2001).

**68B. Definitions.**—In this Chapter, unless the context otherwise requires,—

(a) "Appellate Tribunal" means the Appellate Tribunal [1][referred to in] section 68N;

(b) "associate" in relation to a person whose property is liable to be forfeited under this Chapter, means—

(i) any individual who had been or is residing in the residential premises (including out-houses) of such person;

(ii) any individual who had been or is managing the affairs or keeping the accounts of such person;

(iii) any association of persons, body of individuals, partnership firm, or private company within the meaning of the Companies Act, 1956 (1 of 1956), of which such person had been or is a member, partner or director;

(iv) any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii) at any time when such person had been or is a member, partner or director of such association, body, partnership firm or private company;

(v) any person, who had been or is managing the affairs, or keeping the accounts, of any association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii);

(vi) the trustee of any trust, where,—

(1) the trust has been created by such person; or

(2) the value of the assets contributed by such person (including the value of the assets, if any, contributed by him earlier) to the trust amounts, on the date on which contribution is made, to not less than twenty per cent. of the value of the assets of the trust on that date;

(vii) where the competent authority, for reasons to be recorded in writing, considers that anyproperties of such person are held on his behalf by any other person, such other person;

(c) “competent authority” means an officer of the Central Government authorised by it under section 68D;

(d) “concealment” means the concealment or disguise of the nature, source, disposition, movement or ownership of property and includes the movement or conversion of such property by electronic transmission or by any other means;

(e) “freezing” means temporarily prohibiting the transfer, conversion, disposition or movement of property by an order issued under section 68F;

(f) “identifying” includes establishment of proof that the property was derived from, or used in, the illicit traffic;

(g) “illegally acquired property”, in relation to any person to whom this Chapter applies, means, —

(i) any property acquired by such person, whether before or after the commencement of this Chapter, wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to 2[the contravention of any provisions 3[of this Act or the equivalent value of such property; or]]

[1]Subs. by Act 28 of 2016, s. 227, for “for Forfeited Property constituted under” (w.e.f. 1-6-2016).
[2]Subs. by Act 9 of 2001, s. 32, for “illicit traffic” (w.e.f. 2-10-2001).
[3]Subs. by Act 16 of 2014, s, 20, for “of this Act; or” (w.e.f. 1-5-2014).

(ii) any property acquired by such person, whether before or after the commencement of this Chapter, for a consideration, or by any means wholly or partly traceable to any property referred to in sub-clause (i) or the income or earning from 1[such property or the equivalent value of such property; or]

2[(iii) any property acquired by such person, whether before or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014, wholly or partly out of or by means of any income, earnings or assets the source of which cannot be proved, or

the equivalent value of such property,] and includes—

(A) any property held by such person which would have been, in relation to any previous holder thereof, illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;

(B) any property acquired by such person, whether before or after the commencement of this Chapter, for a consideration, or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom;

3[(h) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, wherever located and includes deeds and instruments evidencing title to, or interest in, such property or assets;]

(i) “relative” means—

(1) spouse of the person;

(2) brother or sister of the person;

(3) brother or sister of the spouse of the person;

(4) any lineal ascendant or descendant of the person;

(5) any lineal ascendant or descendant of the spouse of the person;

(6) spouse of a person referred to in sub-clause (2), sub-clause (3), sub-clause (4) or sub-clause (5);

(7) any lineal descendant of a person referred to in sub-clause (2) or sub-clause (3);

(j) “tracing” means determining the nature, source, disposition, movement, title or ownership of property;

(k) “trust” includes any other legal obligation.

**68C. Prohibition of holding illegally acquired property.—**

(1) As from the commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegally acquired property either by himself or through any other person on his behalf.

(2) Where any person holds any illegally acquired property in contravention of the provisions of sub-section (1), such property shall be liable to be forfeited to the Central Government in accordance with the provisions of this Chapter:

4[Provided that no property shall be forfeited under this Chapter if such property was acquired, by a person to whom this Act applies, before a period of six years from the date he was arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act or from the date the order or detention was issued, as the case may be.]

[1]Subs. by Act 16 of 2014, s. 20, for “such property,” (w.e.f. 1-5-2014).

[2]Ins. by s. 20, ibid. (w.e.f. 1-5-2014).

[3]Subs. by s. 20, ibid., for clause (h) (w.e.f. 1-5-2014).

[4]Subs. by Act 9 of 2001, s. 33, for the proviso (w.e.f. 2-10-2001).

**68D. Competent authority.—**

(1) The Central Government may, by order published in the Official Gazette, authorise 1[any Commissioner of Customs or Commissioner of Central Excise] or Commissioner of Income-tax or any other officer of the Central Government of equivalent rank to perform the functions of the competent authority under this Chapter.

(2) The competent authorities shall perform their functions in respect of such persons or classes of persons as the Central Government may, by order, direct.

**68E. Identifying illegally acquired property.—**

2[(1) Every officer empowered under section 53 and every officer-in-charge of a police station shall, or receipt of information is satisfied that any person to whom this Chapter applies holds any illegally acquired property, he may, after recording reasons for doing so, proceed to take all steps

necessary for tracing and identifying such property.]

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institution or any other relevant matters.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions or guidelines as the competent authority may make or issue in this behalf.

[1]Subs. by Act 16 of 2014, s. 21, for "any Collector of Customs or Collector of Central Excise" (w.e.f. 1-5-2014).

[2]Subs. by Act 9 of 2001, s. 34, for sub- section (1) (w.e.f. 2-10-2001).

**68F. Seizure or freezing of illegally acquired property.—**

(1) Where any officer conducting an inquiry or investigation under section 68E has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which will result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned:

Provided that the competent authority shall be duly informed of any order made under this sub-section and a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made.

**Explanation.**—For the purposes of this section, "transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

(a) the creation of a trust in property;

(b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;

(c) the exercise of a power of appointment of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and

(d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person.

**68G. Management of properties seized or forfeited under this Chapter.—**

(1) The Central Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of a Joint secretary to the Government) as it thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (1) of section 68F or under section 68-I in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

**68H. Notice of forfeiture of property.—**

(1) If, having regard to the value of the properties held by any person to whom this Chapter applies, either by himself or through any other person on his behalf, his known sources of income, earnings or assets, and any other information or material available to it as a result of a report from any officer making an investigation under section 68E or otherwise, the competent authority has reason to believe (the reasons for such belief to be recorded in writing) that all or any of such properties are illegally acquired properties, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the sources of his income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be

declared to be illegally acquired properties and forfeited to the Central Government under this Chapter.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person. [1][Provided that no notice for forfeiture shall be served upon any person referred to in clause (cc) of sub-section (2) of section 68A or relative of a person referred to in that clause or associate of a person referred to in that clause or holder of any property which was at any time previously held by a person referred to in that clause.]

[2]**[Explanation.**—For the removal of doubts, it is hereby declared that in a case where the provisions of section 68J are applicable, no notice under this section shall be invalid merely on the ground that it fails to mention the evidence relied upon or it fails to establish a direct nexus between the property sought to be forfeited and any activity in contravention of the provisions of this Act.]

[1]Ins. by Act 9 of 2001, s. 35 (w.e.f. 2-10-2001).

[2]Ins. by Act 16 of 2014, s. 22 (w.e.f. 1-5-2014).

**68-I. Forfeiture of property in certain cases.—**

(1) The competent authority may, after considering the explanation, if any, to the show cause notice issued under section 68H, and the materials available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties: Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the competent authority or represent his case before it within a period of thirty days specified in the show cause notice, the competent authority may proceed to record a finding under this sub-section ex parte on the basis of evidence available before it.

(2) Where the competent authority is satisfied that some of the properties referred to in the show cause notice are illegally acquired properties but is not able to identify specifically such properties, then, it shall be lawful for the competent authority to specify the properties which, to the best of its

judgment, are illegally acquired properties and record a finding accordingly under sub-section (1).

(3) Where the competent authority records a finding under this section to the effect that any property is illegally acquired property, it shall declare that such property shall, subject to the provisions of this Chapter, stand forfeited to the Central Government free from all encumbrances.

1[Provided that no illegally acquired property of any person who is referred to in clause (cc) of sub-section (2) of section 68A or relative of a person referred to in that clause or associate of a person referred to in that clause or holder of any property which was at any time previously held by a person referred to in that clause shall stand forefeited.]

(4) Where any shares in a company stand forfeited to the Central Government under this Chapter, then, the company shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

**68J. Burden of proof.**—In any proceedings under this Chapter, the burden of proving that any property specified in the notice served under section 68H is not illegally acquired property shall be on the person affected.

**68K. Fine in lieu of forfeiture.—**

(1) Where the competent authority makes a declaration that any property stands forfeited to the Central Government under section 68-I and it is a case where the source of only a part of the illegally acquired property has not been proved to the satisfaction of the competent authority, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the competent authority may, by order, revoke the declaration of forfeiture under section 68-I and thereupon such property shall stand released.

**68L. Procedure in relation to certain trust properties.**—In the case of any person referred to in sub-clause (vi) of clause (b) of section 68B, if the competent authority, on the basis of the

information and materials available to it, has reason to believe (the reasons for such belief to be recorded in writing) that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust or, as the case may be, the contributor of the assets out of or by means of which such propery was acquired by the trust and the trustees, calling upon them within a period of thirty days specified in the notice, to explain the source of money or other assets out of or by means of which such property was acquired or, as the case may be, the source of money or other assets which were contributed to the trust for acquiring such property and thereupon such notice shall be deemed to be a notice served under section 68H and all the other provisions of this Chapter shall apply accordingly.

**Explanation.**—For the purposes of this section "illegally acquired property", in relation to any property held in trust, includes—

(i) any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor;

(ii) any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

**68M. Certain transfers to be null and void.**—Where after the making of an order under sub-section (1) of section 68F or the issue of a notice under section 68H or under section 68L, any property referred to in the said order or notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 68-I, then, the transfer of such property shall be deemed to be null and void.

[2][**68N. Constitution of Appellate Tribunal.**—The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976) shall be the Appellate Tribunal for hearing appeals against the orders made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L.]

[1]Ins. by Act 9 of 2001, s. 36 (w.e.f. 2-10-2001).

[2]Subs. by Act 28 of 2016, s. 227, for section 68N (w.e.f. 1-6-2016).

**68-O. Appeals.—**

(1) [1][Any officer referred to in sub-section (1) of section 68E or any person aggrieved by an order of the competent authority] made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L, may, within forty-five days from the date on which the order is served on him, prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain an appeal after the said period of forty-five days, but not after sixty days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving an opportunity to the appellant to be heard, if he so desires, and after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against.

(3) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches consisting of three members and constituted by the Chairman of the Appellate Tribunal.

(4) Notwithstanding anything contained in sub-section (3), where the Chairman considers it necessary so to do for the expeditious disposal of appeals under this section, he may constitute a Bench of two members and a Bench so constituted may exercise and discharge the powers and functions of the Appellate Tribunal:

Provided that if the members of a Bench so constituted differ on any point or points, they shall state the point or points on which they differ and refer the same to a third member (to be specified by the Chairman) for hearing of such point or points and such point or points shall be decided according to the opinion of that member.

[2][Provided further that if the office of the Chairman is vacant by reason of his death, resignation or otherwise, or if the Chairman is unable to discharge his duties owing to absence, illness or any other cause, the Central Government may, by order, nominate any member to act as the Chairman until a new Chairman is appointed and assumes charge or, as the case may be, resumes his duties.]

(5) The Appellate Tribunal may regulate its own procedure.

(6) On application to the Appellate Tribunal and on payment of the prescribed fee, the Tribunal may allow a party to any appeal or any person authorised in his behalf by such party to inspect at any time during office hours, any relevant records and registers of the Tribunal and obtain a certified copy of any part thereof.

[1]Subs. by Act 9 of 2001, s. 37, for "any person aggrieved by an order of the competent authority" (w.e.f. 2-10-2001).

[2]Ins. by Act 16 of 2014, s. 23 (w.e.f. 1-5-2014).

**68P. Notice or order not to be invalid for error in description.**—No notice issued or served, no declaration made, and no order passed, under this Chapter shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

**68Q. Bar of jurisdiction.**—No order passed or declaration made under this Chapter shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Tribunal or any competent authority is empowered by or under this Chapter to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

**68R. Competent authority and Appellate Tribunal to have powers of civil court.**—The competent authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for examination of witnesses or documents;

(f) any other matter which may be prescribed.

**68S. Information to competent authority.—**

(1) Notwithstanding anything contained in any other law, the competent authority shall have power to require any officer or authority of the Central Government or a State Government or a local authority to furnish information in relation to such persons, points or matters as in the opinion of the competent authority will be useful for, or relevant to, the purposes of this Chapter.

(2) Every officer referred to in section 68T may furnish suo motu any information available with him to the competent authority if in the opinion of the officer such information will be useful to the competent authority for the purposes of this Chapter.

**68T. Certain officers to assist Administrator, competent authority and Appellate Tribunal.**— For the purposes of any proceedings under this Chapter, the following officers are hereby empowered and required to assist the Administrator appointed under section 68G, competent authority and the Appellate Tribunal, namely:—

(a) officers of the Narcotics Control Bureau;

(b) officers of the Customs Department;

(c) officers of the Central Excise Department;

(d) officers of the Income-tax Department;

(e) officers of enforcement appointed under the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(f) officers of police;

(g) officers of the Narcotics Department;

(h) officers of the Central Economic Intelligence Bureau;

(i) officers of the Directorate of Revenue Intelligence;

(j) such other officers of the Central or State Government as are specified by the Central Government in this behalf by notification in the Official Gazette.

**68U. Power to take possession.—**

(1) Where any property has been declared to be forfeited to the Central Government under this Chapter, or where the person affected has failed to pay the fine due under sub-section (1) of section 68K within the time allowed therefor under sub-section (3) of that section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Administrator appointed under section 68G or to any person duly authorised by him in this behalf within thirty days of the service of the order.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the Administrator may take possession of the property and may for that purpose use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the Administrator may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the service of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

**68V. Rectification of mistakes.**—With a view to rectifying any mistakes apparent from record, the competent authority or the Appellate Tribunal, as the case may be, may amend any order made by it within a period of one year from the date of the order:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

**68W. Findings under other laws not conclusive for proceedings under this Chapter.**—No finding of any officer or authority under any other law shall be conclusive for the purposes of any proceedings under this Chapter.

**68X. Service of notices and orders.**—Any notice or order issued or made under this Chapter shall be served—

(a) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;

(b) if the notice or order cannot be served in the manner provided in clause (a), by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made or on some conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.

**68Y. Punishment for acquiring property in relation to which proceedings have been taken, under this Chapter.**—Any person who knowingly acquired, by any mode whatsoever, any property in relation to which proceedings are pending under this Chapter shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to fifty thousand rupees.]

**1[68Z. Release of property in certain cases.—**

(1) Where the detention order of a detenu is set aside or withdrawn, properties seized or frozen under this Chapter shall stand released.

(2) Where any person referred to in clause (a) or clause (b) or clause (cc) of sub-section (2) of section 68A has been acquitted or discharged from the charges under this Act or any other corresponding law of any other country and the acquittal was not appealed against or when appealed against, the appeal was disposed of as a consequence of which such property could not be forfeited or warrant of arrest or authorisation of arrest issued against

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