

# THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(Act 61 of 1985, dt. 16-9-1985)

[As amended vide SO 1730(E), dt. 16-4-2025]

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,<sup>1</sup>[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 Convention on Narcotic Drugs and Psychotropic Substances] and for matters connected therewith.

Be it enacted by Parliament in the Thirty-sixth 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<sup>2</sup>[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<sup>3</sup> 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,—

<sup>4</sup>(i) “addict” means a person who has dependence on any narcotic drug or psychotropic substances;]

(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 Inserted by Act 2 of 1989, w.e.f. 29-5-1989.

2 Inserted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

3 Enforceable w.e.f. 14-11-1985 vide S.O. 821(E), dt. 14-11-1985.

4 Substituted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

- (iv) "cannabis plant" means any plant of the genus cannabis;
- <sup>1</sup>[(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 Erythroxylon;
- <sup>2</sup>[(viii) "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;]
- <sup>3</sup>[(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;
- <sup>4</sup>[(viiiia) "essential narcotic drug" means a narcotic drug notified by the Central Government for medical and scientific use;]

COMMENT

Vide SO 1181(E), dt. 5-5-2015, the Central Government notified for medical and scientific use, following narcotic drugs to be essential narcotic drugs:

- (1) Methyl morphine (commonly known as 'Codeine' and Ethyl morphine and their salts (including Dionine), all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100

<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

<sup>2</sup> Inserted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

<sup>3</sup> Existing Clause (viii) relettered as Clause (viid), *ibid*.

<sup>4</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

milligrammes of the drug per dosage unit and with a concentration of not more than 2.5% in undivided preparations and which have been established in therapeutic practice;

- (2) l-phenethyl-4-N-propionylanilino-piperidine (the international-non-proprietary name of which is Fentanyl) and its salts and preparations, admixtures, extracts or other substances containing any of these drugs;
- (3) Dihydrocodeinone (commonly known as Hydrocodone), its salts (such as Dicode, Codinovo, Diconone, Hycodan, Multacodin, Nyodide, Ydroced and the like) and its esters and salts of its esters, and preparations, admixtures, extracts or other substances containing any of these drugs;
- (4) 4:4-diphenyl-6-dimethylamino-heptanone-3 (otherwise known as 6-dimethyl amino 4 : 4-diphenyl-3-heptanone and as Methadone) and its salts such as (Adanon, Algolysin, Amidone, Amdosan, Butalgin, Depridol, Diaminon, Dianone, Dolafin, Dolamid, Dolphine, Dorixol, Heptadol, Heptanal, Hoechst, 10820, Detalgine, Mecodin, Mepection, Mephenon, Miadone, Moheptal, Physeptone, Pysosopeptone, Polamidon, Simoron, Turnanon and the like) and preparations, admixtures, extracts or other substances containing any of these drugs;
- (5) Morphine and its salts and all preparations containing more than 0.2 per cent. of Morphine;
- (6) Dihydroxy Codeinone (commonly known as 'Oxy-codone and Dihydroxycodeinone), its salts (such as Eucodal, Boncodal, Dinarcon, Hydrolaudin, Nucodan, Percodan, Scophedal, Tebodol and the like), its esters and the salts of its esters and preparations, admixtures, extracts or other substances containing any of these drugs.

<sup>1</sup>[(viiiib)] "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 transshipment, of narcotic drugs and psychotropic substances;
- (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 aforementioned 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

<sup>1</sup> Existing clause (viiiia) relettered as clause (viiiib) by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

- (d) any other international convention, or protocol or other instrument amending an international convention, relating to narcotic drugs or psychotropic substances which may be ratified 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 International Convention, by notification in the Official Gazette<sup>1</sup>, declare to be a manufactured drug<sup>2, 3 4 5 6</sup>
- but does not include any narcotic substance or preparation which the Central Government may, having regard to the available information as to

- 1 Please see Noti. No. SO 1431(E), dt. 21-6-2011, in the Comments of this Section.  
Please see Noti. Nos. SO 2373(E), dt. 12-7-2016 and SO 1382(E), dt. 2-5-2017 in the comments of this section.
- 2 The Central Govt. vide SO 823(E), dt. 27-2-2018 declares the following substances, salts and preparations as manufactured drugs:  
“(i) U-47700 : 3,4-dichloro-N-(2-dimethylamino-cyclohexyl)-N-methyl-benzamide;  
(ii) Butyrfentanyl: N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]butanamide.”
- 3 The Central Govt. vide SO 1350(E), dt. 13-3-2019 declares the following substances, salts and preparations as manufactured drugs:  
“(i) Carfentanyl: Methyl 1-(2-phenylethyl)-4-[phenyl(propionyl)amino]piperidine-4-carboxylate;  
(ii) Ocfentanyl: N-(2-Fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide;  
(iii) Furanylfentanyl: N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide;  
(iv) Acrylylfentanyl (Acrylfentanyl): N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide;  
(v) 4-Fluoroisobutyrfentanyl:N-(4-Fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide;  
(vi) Tetrahydrofuranylfentanyl: N-Phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]oxolane-2-carboxamide.”
- 4 The Central Govt. vide SO 1274(E), dt. 23-3-2021, declares the following substances, salts and preparations thereof to be as manufactured drugs:  
“(i) Crotonylfentanyl: (2E)-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]but-2-enamide;  
(ii) Valeryl fentanyl: N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]pentanamide;  
(iii) Parafluorobutyrylfentanyl: N-(4-fluorophenyl)-N-[1-(2-phenylethyl) piperidin-4-yl] propanamide;  
(iv) Ortho-Fluorofentanyl:N-(2-fluorophenyl)-N-[1-(2-phenylethyl) piperidin-4-yl] propanamide;  
(v) Methoxyacetyl fentanyl:2-methoxy-N-phenyl-N-[1-(2-phenylethyl) piperidin-4-yl] acetamide;  
(vi) Cyclopropylfentanyl: N-Phenyl-N-[1-(2-phenylethyl) piperidin-4-yl] cyclopropane carboxamide.”
- 5 The Central Govt. vide SO 5318(E), dt. 16-11-2022, declares the following substances, salts and preparations thereof to be as manufactured drugs:  
“(i) Brorphine - 1-[1-[1-(4-Bromophenyl)ethyl]-piperidin-1-yl]-1,3-dihydro-2H-imidazol-2-one  
(ii) Metonitazene - N,N-Diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzo[d]imidazole-1-yl)ethan-1-amine”
- 6 The Central Govt. vide SO 577(E), dt. 8-2-2024, declares the following substances, salts and preparations thereof to be as manufactured drugs:  
“(i)2-Methyl-AP-237—1-[2-Methyl-4-[(2E)-3-phenylprop-2-en-1-yl]piperazin-1-yl]butan-1-one  
(ii)Etazene—2-[(4-Ethoxyphenyl)methyl]-N,N-diethyl-1H-benzimidazole-1-ethanamine  
(iii)Etonitazepyne—2-[(4-Ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1Hbenzoimidazole  
(iv)Protonitazene—N,N-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine”

- 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) “Narcotic Commissioner” means the Narcotics Commissioner appointed under section 5;
- (xiv) “narcotic drug” means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured goods;
- (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 the 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;
- <sup>1</sup>[(xxiiiia) "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;
- (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;
- <sup>2</sup>[(xxviiiia) "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 millilitre of substance, if liquid, is contained in every one hundred millilitre 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 prescribed, by rules, any other basis which it may deem appropriate for such calculation.

#### COMMENTS

To fall in the definition of "opium straw" the straw has to be opium poppy or a plant of the species of *papaver somniferum-L*, or any plant of a *papaver* species, notified by the Central Government in the Official Gazette.—*Dula Ram v. State of Himachal Pradesh 2010 (94) AIC 299 (H P H.C.)*

<sup>1</sup> Inserted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

<sup>2</sup> Inserted by Act 2 of 1989, w.e.f. 29-5-1989.

“Illicit traffic” is defined in section 2(viii-a) of the Act. A person who invests or provides funds or resources for facilitating the activities mentioned in sub-clauses (i) to (v) of clause (viii-a) would cover under section 2 of the Act.—*K.K. Ashraf v. State of Kerala 2010 (85) AIC 382 (Kerala H.C.)*

Section 2(xiv) of the Act defines “narcotic drug” to mean coca leaf, cannabis (hemp), opium poppy straw and includes all manufactured drugs.—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

“Illicit traffic”, in relation to narcotic drugs and psychotropic substances, has been defined in section 2(viia) of the Act, *inter alia*, to mean dealing in any activities in narcotic drugs or psychotropic substances other than referred to in sub-clauses (i) to (iii); or handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv).—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

“Commercial quantity” has been defined in section 2(viia) to mean any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette.—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

“International Conventions” have been specified in section 2(ix) of the Act.—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

#### **Relevant Notification u/s 2(xi)(b)**

The Central Government vide Noti. No. 1431(E), dt. 21-6-2011 declares the following substances and preparations to be manufactured drugs, namely:—

(1)	Betamethadol	$\beta$ -6-dimethylamino-4, 4-diphynyl-3-heptanol
(2)	Dihydroetorphine	7, 8-dihydro-7 $\alpha$ [1(R)hydroxy-1-methylbutyl]-6
(3)	Oripavine	14-edo-ethanotetrahydro-oripavine
(4)	Racemoramide	( $\pm$ )-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine
(5)	Remifentail	1-(2-methoxycarbonylethyl)-4-(phenylpropionylamino) piperidine-4-carboxylic acid methyl ester.

Vide SO 2373(E), dt. 12-7-2016, the Central Government hereby declares the following substance, salts and preparations thereof to be manufactured drug, namely:—

AH-7921 : 3,4-dichloro-N-[1-dimethylamino cyclohexylmethyl] benzamide.

Vide SO 1382(E), dt. 2-5-2017, the Central Government hereby declares the following substances, salts and preparations thereof to be manufactured drugs, namely:—

Acetylfentanyl : N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] acetanamide

MT-45 : 1-cyclohexyl-4-(1, 2-diphenylethyl) piperazine

#### **Addict**

An addict is one who is accustomed to habitual use of a drug, liquor, narcotics to such an extent as to deprive him of reasonable self control.

#### **Cannabis (Hemp)**

Hemp means—

- (a) the leaves of small stalks and flowering and fruiting tops of the Indian hemp plant (*cannabis sativa* L) including all forms known as bhang, siddi or ganja;
- (b) charas is obtained from the flowers of Indian hemp plant, which has not been submitted to any manipulation other than those necessary for packing and transport. Charas is an intoxicating drug. Also includes concentrated preparation and resin known as hashish oil and liquid hashish.—*Jeevan Chand v. State of Goa 1988(1) FAC 102 (Bom)*
- (c) ganja connotes the leaves and young buds of the hemp plant which are bruised when they are ripe and are smoked for intoxication. “Danttal” and seeds mixed with dry leaves of ganja does not amount to ganja.—*Munnalal v. State of Rajasthan 1995 CrLR 734 (Raj)*

(d) Bhang is not a Narcotic Drug or Substances under this Act.—*Samid v. State of UP* 1995 JIC 833 (ACC)

**Controlled Substances** [Sec. 2(viid)] vide SO 834(E), dt. 26-3-2013

The Central Government in exercise of the powers conferred by clause (viid) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), hereby declares the substances mentioned in the Table below as controlled substance for the purposes of the said clause, namely:—

Sl. No.	Description of substance
1.	Ergometrine and its salts
2.	Ergotamine and its salts
3.	Isosafrole
4.	Lysergic acid and its salts
5.	3,4-methylenedioxyphenyl-2-propanone
6.	Methyl ethyl ketone
7.	Norephedrine (Phenylpropanolamine), its salts and preparations thereof
8.	1-phenyl-2 propanone
9.	Phenylacetic acid and its salts
10.	Piperonal
11.	Potassium permanganate
12.	Safrole and any essential oil containing 4% or more safrole
13.	Preparations of Ephedrine
14.	Preparations of Pseudoephedrine

#### **Conveyance**

Aircraft means a weight carrying structure for navigation of the air that is supported either by its own buoyancy by the dynamic action of the air against its surfaces used as safety equipments and includes aeroplanes, balloon, kite balloon, airships, gliders or other machines for flying.

Vehicle means a conveyance of any kind used on land and includes a railway vehicle. It means a wheeled conveyance of any description which is capable of being used on street, and includes a motor car, motor lorry, motor omnibus, cart, locomotive, tram-car, handcart, truck, motor cycle, bicycle, tricycle and rickshaw.

Vessel shall include any ship or boat or any other description of vessel used in navigation, a conveyance by water of human beings or property. Structure which is made to float upon the water, for purposes of commerce or war, whether impelled by wind, steam, or oars.—*Chaffe v. Ludeling* 27 La. Ann 607. Any structure, especially a hollow one, made to float upon the water for purposes of navigation; a craft for navigation of the water, often, specifically, one larger than a common row boat; as, a war vessel; a passenger vessel.—*City of Tampa v. Tampa Shipbuilding and Engineering Co.* 136 Fla 216, 186 So. 411, 412 *Massman Const Co. v. Bassett, D.C. Mo* 30 F Supp. 813 815

#### **Illicit traffic**

A person abets the doing of thing, who—

Firstly—Instigates any person to do that thing; or

Secondly—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly—Intentionally aids, by any act or illegal omission, the doing of that thing.—*Sec. 107, Indian Penal Code, 1860*

It is the instigation to the Commission of the act itself which constitutes the offence, that is regarded as abetment.—*Shrilal v. State AIR 1953 Madh B 155: 1953 CR LJ 995*. Abetment may take place in one of the three ways—(1) instigation (2) conspiracy or (3) intentional aid.—*Malan v. State of Bombay ILR (1958) Bom 700 : AIR 1960 Bom 393*

#### **Manufacture**

Manufacture in relation to a drug includes any process or part of a process for making, altering, finishing, packing, labelling, breaking up or otherwise treating or adapting any drug with a view to its sale and distribution.

Transformation means a new and a different article must emerge having a distinctive name, character and use.—*South Bihar Sugar Mills v. Union of India AIR 1968 SC 922: (1968) 2 SCJ 433*

#### **Narcotic drugs**

Heroin is a manufactured good/drug and hence a narcotic drug under this Act.—*T Paul Kuki v. State of WB (1993) 3 Crimes 660 (Cal) (DB)*

Gard powder (*Shamsher v. State of Karnataka 1995 AIHC 427 (Bom)*), Cannabis (hemp) (*Aziz v. State of Kerala 1994, CrLJ 2407: 1994(1) Crimes 418 (Ker)*), Hashish oil (*Ammini Jose v. State of Kerala 1995 (II) CCR 240 (Ker) (DB)*) fall within the ambit of narcotic drugs.

Bhang, dry leaves of cannabis plant, without tops is not a narcotic drug under the Act.—*Sevaram v. State of Rajasthan 1993 CrLJ 2503 (Raj)*. Also see comments on Hemp.

#### **Opium**

The characteristic of opium depends upon different kinds of alkaloid it contains. There are as many as 18 alkaloids of which the most important is morphine.. If the sample/product contains morphine above 0.2%, the product has to be treated as opium.—*Satish Kumar v. State 1989 (2) Crimes 109 (Del)*

Mixture containing not less than 0.2% morphine is a narcotic drug.—*Mohammed Rizwi v. State 1995 AIHC 4283 (Mad)*

#### **Opium derivative**

Heroin and gard powder fall within the meaning of this section—*Moinuddin Kasim Mulla v. State of Maharashtra 1991 Drugs Cases 391 (Bom) & Shamsher v. State of Maharashtra 1995 AIHC 427 Bom* respectively.

#### **Poppy straw**

Post chura and poppy husk are poppy straw which fall within this definition.—*Gurdeep v. State of Rajasthan 1993 CrLJ (Raj) 505*

Afim-ka-doda falls within this section.—*Sadhu Das v. State UP 1996(1) EFR 63 (All)*

#### **To import inter-State**

For the purposes of this clause and cl. (xxvii) 'State' does not include a Union Territory.—*Advocates Act, 1961 s. 2(1)*.

In Part III of the Constitution of India, unless the context otherwise requires, the State includes the government and Parliament of India and the government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.—*Constitution of India, Article 12*

Sec. 3(62A) of the General Clauses Act, 1897 and Art. 366(30) of the Constitution of India, say that, any Union territory specified in Sch. I to the Constitution and shall include any other territory comprised within the territory of India, but not specified in that Schedule.

According to s. 2(h) Government of Union Territories Act, 1963, 'Union Territory' means any of the Union Territories of the Andaman and Nicobar Island, Lakshadweep, Dadra and Nagar Haveli, Goa, Daman and Diu, Pondicherry, Chandigarh, Mizoram and Arunachal Pradesh.

#### **To import into India**

Port is a place for loading or unloading of the cargoes of vessels and the collection of duties or custom upon imports and exports. It is a place either on a seacoast or river, where ships stop for the purpose of loading and unloading from where they depart, where they finish their voyages.

Airport is a tract of land or water that is maintained for the landing and takeoff of aircraft and for receiving and discharging passenger and cargo. Airport means an aerodrome as defined in cl. (2) of s. 2 of the Aircraft Act, 1934 (22 of 1934).

**Use**

Use means to employ to any purpose, deal with, make business with. Use is not a word with precise meaning, in general it conveys the idea of enjoyment derived by the user from the corpus of the object enjoyed.

**Anthranilic Acid**

Anthranilic Acid comes under controlled substance vide Noti. No. 1/63/2002-NC-II, dt. 26-2-2005.

**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****AUTHORITIES 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 <sup>1</sup>[and for ensuring their medical and scientific use].

(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) co-ordination 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 co-ordination 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;

<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

<sup>1</sup>[(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.

(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 Psychotropic 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.

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<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014.

(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.

### <sup>1</sup>[CHAPTER IIA

#### 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.

<sup>2</sup>[(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; and
- (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.

<sup>1</sup> Inserted by Act 2 of 1989, w.e.f. 29-5-1989.

<sup>2</sup> Substituted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

**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:

<sup>1</sup>[PROVIDED FURTHER that nothing in this section shall apply to the export of poppy straw for decorative purposes.]

**COMMENTS**

Section 8 *inter alia* bars possession, sale, purchase, transport of any narcotic drugs except for medical or scientific purposes and in the manner and the extent provided by the provisions of the Act or the rules or orders framed thereunder.—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

Vide Notification No. S.O. 389(E) dt. 30-5-1989, the Central Government specifies 15-5-1989 as the date from which the prohibition against the cultivation of cannabis plant for the production of ganja for any other purpose other than medical and scientific purposes shall take effect. 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 purposes shall take effect.

Where 100 gms of ganja was recovered from the possession of the appellant on 18-7-1988, it was held that the accused could not be prosecuted under the Narcotic Drugs and Psychotropic Substances Act, 1985, since prohibition in respect of ganja was made an offence by the Central Government after 18-7-1988.—*Gangaram Patel v. State of Orissa 1995 (3) CCR 415 (Ori)* also see *Haleemuddin v. State of MP 1994 (2) EFR 227 (MP)*, *Mehmood v. State of MP 1989 EFR 751*

1 Inserted by Act 2 of 1989, w.e.f. 29-5-1989.

Accused A & B had made a prearranged plan to purchase charas from C. All the accused have committed an offence punishable under s. 20(b)(ii) for violation of s. 8(c) of this Act.—*Ismail v. State of Kerala 1991 CrLJ 2945*

Possession of Ganja is in contravention of s. 8 of this Act and therefore, the accused is liable to be prosecuted and convicted under this Act.—*Kamala Devi v. State of Karnataka 1992 CrLJ 561 (Kar)*

The Central Government can permit with or without condition, the cultivation of coca plant on its behalf or gathering of any portion thereof under s. 13. Similarly, the Central Government can allow despite prohibition under s. 8 cultivation of any cannabis plant for industrial purposes only of obtaining fibre or seed and for horticulture purposes under s. 14 of this Act.

<sup>1</sup>**[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;
  - <sup>2</sup>[(iiiia) 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;

<sup>1</sup> Inserted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

<sup>2</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

- (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;
  - <sup>1</sup>[(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 has granted licence or permit under the provisions of section 10 prior to the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 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.]
  - (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 transshipment of narcotic drugs and psychotropic substances;
  - (b) prescribe any other matter requisite to render effective the control of the Central 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 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,

<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

- 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;
- <sup>1</sup>[(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.

COMMENT

Section 9 of the Act empowers the Central Government to make rules *inter alia* permitting and regulating possession of narcotic substance, subject, however, to the provisions contained in section 8 thereof.—*Noor Aga v. State of Punjab 2010 (96) AIC 176 (S.C.)*

<sup>2</sup>**[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 of any 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.]

<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

<sup>2</sup> Inserted by Act 2 of 1989, w.e.f. 29-5-1989.

COMMENTS

Controlled substance has been defined in s. 2(viia) of this Act. Vide Notification of the Ministry of Finance, Department of Revenue, Narcotic Drugs Control Bureau dt. 24-3-1993, "Acetic Anhydride' is a controlled substance under this Act.—*Bheru Lal v. State of Rajasthan 1995(4) Crimes 661 (Raj)*

**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<sup>1</sup>[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<sup>2</sup>[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 insofar 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 in the 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

<sup>1</sup> Inserted by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

<sup>2</sup> Substituted for "manufactured drugs other than prepared opium", *ibid*.

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 licensed 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.

**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.

COMMENTS

According to this section the government may have control over traffic in narcotic drugs and psychotropic substances outside India. The persons may have their headquarters in India but their trafficking lies entirely outside India, e.g., where a merchant in Bombay arranges with opium supplier in Iran for supplying/despaching opium to China. The offence is punishable under s. 24 of this Act.

**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.

COMMENTS

Coca plant has been defined in s. 2(vii) and coca leaves in s. 2(vi) of this Act. This section is an exception or proviso to s. 8 of this Act.

**14. Special provisions 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 PENALTIES****<sup>1</sup>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 <sup>2</sup>[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.

COMMENTS

Poppy capsule does not identify the substance found to be opium as defined under sec. 2(xvii) of the Act—*State of Gujarat v. Gopal Laxman Thakur 2005 (2) SCJ 599 (SC)*.

**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, or 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,—

<sup>1</sup> Secs. 15 to 18 substituted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

<sup>2</sup> Substituted for "six months" by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to <sup>1</sup>[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 <sup>1</sup>[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.]

#### **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.

#### COMMENTS

For the prosecution under this section the accused should be a person who is having licence to cultivate opium poppy on account of the Central Government, and he has embezzled or otherwise illegally disposed of the opium produced by him or any part thereof. The provision of this section will not be attracted if the opium poppy has been cultivated without a licence. Also, if the opium poppy has not been cultivated on behalf of the Central Government, the offence will not fall under this section. Procedure is as mentioned in comments under s. 15 of this Act.

<sup>1</sup> Substituted for "six months" by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.

**20. Punishment for contravention in relation to cannabis plant and cannabis**

Whoever, in contravention of any provisions 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—

- <sup>1</sup>(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 <sup>2</sup>[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.]

COMMENTS

Possession of only the leaves or the seeds of cannabis plant is no offence, because it is only the charas, ganja or mixture, as defined in section 2(iii) of the Act, which is an offence, under section 20 of the Act. Leaves and seeds of cannabis plant are not included either in the definition of charas or ganja and are rather specifically excluded from the definition of ganja, unless they accompany the flowering and fruiting tops of the plant.—*Sunil v. State of Himachal Pradesh 2010 (89) AIC 599 (Himachal Pradesh H.C.)*

Section 20(b) envisages that where the contravention relates to sub-clause (b) of section 20 and involves small quantity, being an offence, shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine, which may extend to ten thousand rupees or with both.—*Akhilak @ Vilsan v. State of Rajasthan 2010 (94) AIC 822 (Rajasthan H.C.)*

If the offence relates to small quantity then it will become punishable with rigorous imprisonment upto period of six months as provided under section 20(b)(ii)(A) of the N.D.P.S. Act.—*K.K. Rejji v. State by Murdeshwar Police Station, Karwar 2010 (95) AIC 765 (Kerala H.C.)*

If the quantity is more than small quantity but less than the commercial quantity it would be punishable with imprisonment for a term which may extend to ten years under section 20(B)(ii)(b) of the Act.—*K.K. Rejji v. State by Murdeshwar Police Station, Karwar 2010 (95) AIC 765 (Kerala H.C.)*

<sup>1</sup> Substituted by NDPS (Amendment) Act, 2001, w.e.f. 2-10-2001 vide SO 957(E), dt. 27-9-2001.

<sup>2</sup> Substituted for "six months" by NDPS (Amdt.) Act, 2014 (16 of 2014), dt. 7-3-2014, w.e.f. 1-5-2014 vide SRO 1183(E), dt. 30-4-2014.