



The Orissa Drugs (Control) Act, 1950

Act 5 of 1950

Keyword(s):

Dealer, Drug, Offer for Sale, Producer

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The Orissa Drugs (Control) Act, 1950

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AN ACT TO PROVIDE FOR THE CONTROL OF THE SALE, SUPPLY AND DISTRIBUTION OF DRUGS- WHEREAS IT IS EXPEDIENT TO PROVIDE FOR THE CONTROL OF THE SALE, SUPPLY AND DISTRIBUTION OF DRUGS. IT IS HEREBY ENACTED AS FOLLOWS:

Statement of Objects and Reasons - With the devaluation of the rupee in September, 1949, prices of drugs and medicines manufactured in the hard currency area went up rapidly and stocks of such medicines also went underground. The necessity of preventing hoarding and profiteering in these medicines was immediately felt. As the Assembly was then not in session, a self-constrained and comprehensive ordinance was promulgated with the prior concurrence of the Government of India providing for control of sale, supply, distribution, price-making, limitation on possession and requisitioning etc. of drugs. It may be mentioned that the promulgation of such an ordinance was all the more necessary because other provinces promulgated ordinances for the same purpose and on the same lines. As the need (or controlling sale, supply, distribution and prices etc., of drugs and preventing hoarding and profiteering in the same is likely to outlive, the ordinance legislation has become necessary.

1. Short title, extent and commencement - (1) This Act may be called the Orissa Drugs (Control) Act, 1950.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force at once.

2. Definitions - (1) In this Act unless there is anything repugnant in the subject or context

(a) **“dealer”** means a person carrying on-, either personally or through any other person, the business of selling any drugs whether wholesale or retail;

(b) **“drug”** means any drug as defined in Clause (b) of Section 3 of the Drugs Act, 1940 (XXIII of 1940) in respect of which a declaration has been made under Section 3;

(c) **“offer for sale”** includes a reference to an intimation by a person of the price proposed by him for a sale of any drug, made by the publication of a price list, by exposing the drug for sale in association with a mark indicating price, by the furnishing of a quotation or

otherwise howsoever;

(d) **“producer”** includes a manufacturer. (2) A drug shall be deemed to be in the possession of a person

(i) when it is held on behalf of that person by another person or when held by that person on behalf of another person;

(ii) notwithstanding that it is mortgaged to another person.

3. Drugs to which this Act applies - The State Government may, by notification, declare any drug to be a drug to which this Act shall apply.

4. Fixing of maximum prices and maximum quantities which may be held or sold - (1) The State Government may, by notification, fix in respect of any drug

(a) the maximum price or rate which may be charged by a dealer or producer;

(b) the maximum quantity which may at anyone time be possessed by a dealer or producer;

(c) the maximum quantity- which may in anyone transaction be sold to any person.

(2) The prices or rates and the quantities fixed in respect of any drug under this section may be different in different localities or for classes of dealers or producers.

5. Restrictions on sale etc. where maximum is fixed under Section 4 - No dealer or producer shall

(a) sell, agree to sell, offer for sale or otherwise dispose of to any person any drug for a price or at a rate exceeding the maximum fixed by notification under Clause (a) of Sub-section (1) of Section 4;

(b) have in his possession at anyone time a quantity of any drug exceeding the maximum fixed by notification under Clause (b) of Sub-section (1) of Section 4; or

(c) sell, agree to sell or offer for sale to any person in anyone transaction a quantity of any drug exceeding the maximum fixed by notification under Clause (c) of Sub.-section (1) of Section 4.

6. General limitation of quantity which may be possessed at one time - (1) No person shall have in his possession at anyone time a greater quantity of any drug to which this section applies than the quantity necessary for his reasonable needs.)

(2) This section shall apply only to such drugs as the State Government may, by order published in the Gazette, specify for the purpose:

Provided that nothing contained in this section shall apply to a dealer or producer in respect of any drug sold or produced by him.

7. Duty to declare possession of excess stocks - Any person, having in his possession a quantity of any drug exceeding that permitted by or under this Act, shall forthwith report the fact to the State Government or any officer empowered in this behalf by the State Government and shall take such action as to the storage, distribution or disposal of the excess quantity as the State Government may direct.

8. Refusal to sell - No dealer or producer shall, unless previously authorised to do so by the State Government without sufficient cause refuse to sell to any person any drug within the limits as to quantity, if any, imposed by this Act.

Explanation - The possibility or expectation of obtaining a higher price for a drug at a later date shall not be deemed to be sufficient cause for the purpose of this section.

9. Cash memorandum to be given of certain sales - (1) Every dealer or producer when selling any drug for cash shall, if the amount of the purchase is five rupees or more, in all cases, and, if the amount of the purchase is less than five rupees, when so requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(2) The State Government may, by notification, prescribe the particulars to be contained in any such memorandum.

(3) The State Government may, by notification, exempt specified areas, classes of dealers or producers or classes of drugs from the operation of this section.

10. Marking of prices and exhibiting price List- (1) The State Government may, by notification and within such date as may be specified therein, direct dealers or producers in general, or any dealer or producer in particular, to mark any drug exposed or intended for sale with the sale price or to exhibit on the premises a price list of drugs held for sale and a statement of the quantities of such drugs in his possession and may also by notification provide for the manner in which any such direction as aforesaid is to be carried out.

(2) The publication of a notification under Sub-section (1) shall be conclusive proof of the fact that the persons hereinbefore specified had knowledge of the directions and the manner of carrying out such directions contained in such notification.

(4) No dealer shall destroy, efface or alter any label or mark affixed to a drug and indicating the price marked by a producer.

11. Obligation to state price separately on composite offer - Where a dealer or producer makes an offer to enter into a transaction for a consideration to be given as a whole in respect both of a sale of any drug and of some other matter, the dealer or producer making offer shall state in writing the price which he assigns to that drug, if he is required to do so by any person to whom the offer is made, and the offer shall be deemed for the purposes of this Act to be an offer to sell that drug at the price so stated.

12. Prohibition or regulation of the disposal of drugs - If in the opinion of the State Government it is necessary or expedient so to do, they may, by order in writing

- (a) prohibit the disposal of any drug except in such circumstances and under such conditions as may be specified in the order;
- (b) direct the sale of any drug to any such dealer or class of dealers and in such quantities as may be specified in the order; and make such further orders as appear to be necessary or expedient in connection with any order issued under this section.

13. Penalties - (1) Whoever contravenes any of the provisions of this Act or fails to comply with any direction made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to three years or with both.

(2) A Court convicting any person of an offence punishable under this Act may order that the whole or any part of the stock of drugs in respect of which the offence was committed, shall be forfeited to the Government.

(3) It shall be a defence for a person charged with a contravention of any of the provisions of this section to prove that in relation to the matter in respect of which he is charged, he acted in the course of his employment as a servant or agent of another person on the instructions of his employer or of some other specified person.

CASE LAW: The accused person exposed drug for sale without making sale price. In such case where no evidence was led to indicate that accused had the criminal intention to violate the provisions of the Act, he cannot be convicted under Section 13 (1) of the Act: AIR 1952 Ori. 214.

14. Offences by corporations - Where a person committing an offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, every manager, secretary, agent or other officer or person concerned with the management thereof, shall, unless he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

15. Procedure - (1) No person other than a police officer of or above the rank of an Inspector of Police or an officer not being below the rank of an Inspector of Police authorised in this behalf by the State Government by notification shall investigate any offence under this Act.

(2) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the District Magistrate.

16. Power of search and seizure - Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being committed and take possession of any stock of drugs in respect of which the offence has been or is being committed and the provision of the Code of

Criminal Procedure; 1898, (Act V of 1898) shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under Section 93 of that Code.

17. Power to make rules - (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:

- (a) the maintenance by dealers and producers generally or by any dealer or producer in particular, of records of all sale and purchase transactions made by them;
- (b) the furnishing of any information as may require with respect to the business carried on by any dealer or producer;
- (c) the inspection of any books of account or other documents belonging to or under the control of any dealer or produce

18. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act,

19. Saving of other laws - The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.