

The Bihar Drug Advertisements Control Act, 1948

BIHAR

India

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Act 13 of 1948

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The Bihar Drug Advertisements Control Act, 1948 Bihar Act 13 of 1948 For Statement of Objects and Reasons, See Bihar Gazette, 1947, Part V, p. 474. [Governor's assent published in the Bihar Gazette, Extraordinary of the 1st April, 1948]. An Act to re-enact the Bihar Drug Advertisements Control Act, 1946. Whereas, the Bihar Drug Advertisements Control Act, 1946, was enacted by the Governor in exercise of the powers assumed to himself by the Proclamation, dated the 3rd November, 1939, issued by him under Section 93 of the Government of India Act, 1935, for the purpose of controlling objectionable advertisements relating to alleged cures of certain diseases and conditions; And whereas, under paragraph 6 of the India (Provisional Constitution) Order, 1947, the said Bihar Drug Advertisements Control Act, 1946, shall not, unless reenacted by an Act of the Provincial Legislature, have effect after the first day of April, 1948; And whereas, it is expedient to continue the said Bihar Drug Advertisements Control Act, 1946, after the first day of April, 1948, with certain modification; It is hereby enacted as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Drug Advertisements Control Act, 1948. (2) It shall extend to the whole of the [State] [Substituted by Adaptation of Laws Order.] of Bihar. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context:- (a) an advertisement or notice shall be deemed to be "exhibited in a public place" if it is exhibited in a public place where it can be seen by members of the public; (b) "drug" includes any substance used as medicine whether for internal or external use; (c) "licensing authority" means such authority as the [State] [Substituted by Adaptation of Laws Order.] Government may, by notification, appoint in this behalf; (d) "medical practitioner" means a medical practitioner registered under any law for the time being in force and includes a person practising Homoeopathy or the Unani or Ayurvedic system of medicine who is

licensed under Section 6 to be a medical practitioner for the purposes of this Act; and(e)"venereal disease" includes syphilis, gonorrhoea, soft chancre, venereal granuloma and lympho granuloma.

3. Prohibition of certain advertisements.

(1)No person shall publish or cause to be published in any newspaper or other periodical or exhibit or cause to be exhibited in any public place or in any shop or distribute or cause to be distributed in any leaflet or pamphlet an advertisement holding out or recommending to the public any drug or other preparation or anything to be used as or suggestive of, a sexual stimulant or for the prevention, cure or relief of any venereal disease or any other disease, ailment or condition which the [State] [Substituted by Adaptation of Laws Order.] Government may specify in rules made under this Act:Provided that this provision shall not apply to any advertisement distributed only to medical practitioners.(2)No person shall publish or cause to be published in any newspaper or other periodical or exhibit or cause to be exhibited in any public place or in any shop or distribute or cause to be distributed in any leaflet or pamphlet an advertisement referring to any drug or other preparation in terms calculated to lead to its use for procuring the abortion or miscarriage of pregnant women.

4. Advertising any premises or place for the treatment of venereal disease.

- Except with the sanction of an officer designated for the purpose by the [State] [Substituted by Adaptation of Laws Order.] Government no person shall publish or cause to be published in any newspaper or other periodical or exhibit or cause to be exhibited in any public place or in any shop or cause to be distributed in any leaflet or pamphlet a notice advertising any premises or place for the treatment of any venereal disease.

5. Power to seize newspaper, etc., containing advertisement in contravention of the provisions of this Act.

- Any officer authorised in this behalf by general or special order of the [State] [Substituted by Adaptation of Laws Order.] Government may seize copies of any newspaper, periodical, leaflet or pamphlet, wherever found; if it appears to him that an advertisement contained therein contravenes the provisions of this Act or the rules made thereunder or a licence granted thereunder and any Magistrate trying the offence may, without prejudice to any sentence which he may lawfully pass, direct that such copies in respect of which he is satisfied that such offence has been contravened shall be forfeited to the [Government] [Substituted by Adaptation of Laws Order.].

6. Grant of licences to certain medical practitioners.

(1)A person practising Homoeopathy or the Unani or Ayurvedic system of medicine desirous of obtaining a licence under this section shall apply to the licensing authority in writing, stating the system of medicine he practices and such other particulars as may be prescribed.(2)It shall be in the discretion of the licensing authority to grant or refuse to grant a licence. The licence shall be in such

form and subject to such conditions as may be prescribed.(3)The licensing authority may cancel or revoke any licence granted under this section without assigning any reason.

7. Penalty.

- Any person who contravenes the provisions of this Act or the rules made thereunder shall be punishable with rigorous imprisonment for a period not exceeding six months or with fine or with both.

8. Cognizance of offences.

(1)No Court shall take cognizance of an offence against the provisions of this Act or the rules made thereunder or any condition of any licence granted under this Act except on the written complaint made by the Chairman or the Health Officer of a local authority, the Civil Surgeon or any officer authorised by general or special order of the [State] [Substituted by Adaptation of Laws Order.] Government in this behalf.(2)No Court inferior to that of a Magistrate of the second class shall try any offence punishable by or under this Act.

9. Protection of public servants.

- No suit, prosecution or other legal proceeding shall lie against any public servant for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

10. Power to make rules.

(1)The [State] [Substituted by Adaptation of Laws Order.] Government may, by notification, make rules generally for carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may specify, with reference to the provisions of sub-section (1) of Section 3, other diseases, ailments or conditions in respect of which no advertisement of any drug or other preparation shall be published, exhibited or distributed.

11. Repeal and saving.

- The Bihar Drug Advertisements Control Act, 1946, is hereby repealed; and any rules, made, anything done and any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act.