

The M.P. Drugs (Control) Act, 1949

MADHYA PRADESH

India

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Act 47 of 1949

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The M.P. Drugs (Control) Act, 1949 M.P. Act No. 47 of 1949 [Dated 3rd November, 1949] Received the assent of the Governor on the 3rd November, 1949; Published in the Central Provinces and Berar Gazette on the 11th November, 1949. An Act to provide for the control of the sale, supply and distribution of drugs in Madhya Pradesh; Whereas it is expedient for the control of the sale, supply and distribution of drugs in Madhya Pradesh; It is hereby enacted as follows :

1. Short title and extent.

(1) This Act may be cited as the [Madhya Pradesh] [Substituted by section 3 (4) of M.P. Extension of Laws Act, 1958 (XXIII of 1958).] Drugs (Control) Act, 1949. (2) [It [extends] [Substituted by section 3 (3) of M.P. Extension of Laws Act, 1958 (XXIII of 1958).] to and shall be in force in the whole of Madhya Pradesh.]

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; (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 any one time be possessed by a dealer or producer;(c)the maximum quantity which may in any one 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 different 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 any one 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 any one transaction a quantity of any article exceeding the maximum fixed by notification under clause (c) of sub-section (1) of Section 4.

6. General limitation on quantity which may be possessed at one time.

(1)No person shall have in his possession at any one 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 notification, 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 an officer empowered by notification 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 or under 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 a 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 case memorandum.(3)The State Government may, by notification, except 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 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 prices or to exhibit on the premises a price list of drugs held for sale [and the quantities of such drugs in his possession] [Inserted by Section 2 of M.P. Act No. XXXV of 1950.] and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.(2)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 the 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 of sale, etc., and requisitioning of drugs.

(1)If, in the opinion of the State Government, it is necessary or expedient so to do, it 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;(c)[X X X] [Omitted by Section 3 of M.P. Act No. XXXV of 1950.]and make such further orders as appear to it to be necessary or expedient in connection with any order issued under this sub-section.(2)[X X X] [Omitted by Section 3 of M.P. Act No. XXXV of 1950.](3)[X X X] [Omitted by Section 3 of M.P. Act No. XXXV of 1950.](4)[X X X] [Omitted by Section 3 of M.P. Act No. XXXV of 1950.](5)[X X X] [Omitted by Section 3 of M.P. Act No. XXXV of 1950.]

13. Penalties.

(1)Whoever contravenes any of the provisions of this Act or of 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 fine, 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 State Government.(3)It shall be a defence for a person charged with a contravention of any of the provisions of this Act 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.

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 director, 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 Sub-Inspector of Police 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. Powers of search and seizure.

- Any person competent to investigate any offence under this Act [for any other person authorised in this behalf by the State Government] [Inserted by Section 4 (i) of M.P. Act No. XXXV of 1950.] 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 provisions of the Code of Criminal Procedure, 1898 (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 98 of that Code.] [Inserted by Section 4 (ii) of M.P. Act No. XXXV of 1950.]

17. Delegation of powers.

- The State Government may, by order, direct that the powers conferred on it by Section 10 or [X X X] [Omitted by Section 5 of M.P. Act No. XXXV of 1950.] Section 12 shall also be exercisable by a [Collector] [Substituted by M.P. A.O. 1957.] in such circumstances and under such conditions, if any, as may be specified in the order.

18. 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 the producers generally, or by any dealer or producer in particular, of records of all sale and purchase transaction made by them;(b)the furnishing of any information as may be required 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 producer;(d)[X X X] [Omitted by Section 6 of M.P. Act No. XXXV of 1950.]

19. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

20. 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.

21. Repeal and saving.

(1)The Central Provinces and Berar Drugs (Control) Ordinance, 1949 (V of 1949), is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance, things done and action taken by any authority by or under the provisions of the said Ordinance shall be deemed to have been done and taken under this Act.