

Bihar Narcotic Drugs and Psychotropic Substances Rules, 1985

JHARKHAND

India

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Rule

BIHAR-NARCOTIC-DRUGS-AND-PSYCHOTROPIC-SUBSTANCES-RULES of 1985

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Bihar Narcotic Drugs and Psychotropic Substances Rules, 1985Published vide Notification S.O. 1128, dated the 2nd November, 1985S.O.1128, dated the 2nd November, 1985. - In exercise of the powers conferred by Sections 10, 65 and 71 read with Section 78 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985), the Governor of Bihar is pleased to make the following rules, namely:-

1. Short title.

- These rules may be called the Bihar Narcotic Drugs and Psychotropic Substances Rules, 1985.

2. Extent and commencement.

- They shall extend to whole of the State of Bihar and shall come into force from the 3rd of November, 1985.

3. Definition.

(1)In these rules, unless there is anything repugnant in the subject or context,(a)"Act" means the Narcotic Drugs and Psychotropic Substances Act, 1985;(b)"Approved Medical Authority" means a person who holds the post of a Civil Surgeon or a District Superintendent or a Deputy Superintendent of a Hospital or a Medical Officer incharge of a Government Hospital or Dispensary or a Dispensary maintained by a Local Body;(c)"Approved Practitioner" means a person-(i)holding a qualification granted by an authority specified or notified under Section 3 of the Indian Medical

Degree Act, 1916 (7 of 1916), or specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956); or(ii)registered or eligible for registration in a medical register of a State meant for the registration of persons practising the modern scientific system of medicine excluding the Homeopathic system of medicine; or(iii)registered in a medical register other than a register for the registration of Homeopathic practitioners, of a State, who although not falling within sub-clause (i) or sub-clause (ii) is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this Act and is approved by the Collector for the purposes of these rules; or(iv)registered or eligible for registration in the register of dentists for a State under the Dentists Act, 1948 (16 of 1948); or(v)who is engaged in the practice of veterinary medicine and who possesses qualifications approved by the State Government;(vi)any other person engaged in medical, dental or veterinary practice and approved by the Commissioner of Excise for the purpose of these rules or of corresponding rules for time being in force in any part of India;(d)"Board of Revenue" means the Board or Revenue for Bihar constituted under the Bihar and Orissa Board of Revenue Act, 1913;(e)"Chemical Examiner" means the Chemical Examiner to the State Government and includes such other officer whom the State Government or the Central Government may at any time appoint as Chemical Examiner;(f)"Collector" means the chief officer incharge of the Revenue administration of a district and includes an officer of the Department of Excise and Prohibition not below the rank of a Superintendent of Excise and any officer empowered by the Government by name or in virtue of his office, to perform all or any of the functions of a Collector under these Rules;(g)"Commissioner of Excise" means the Head of the Department of Excise and Prohibition, Bihar;(h)"Excise Officer" means the Commissioner of Excise or a Collector or an officer of the Department of Excise and Prohibition Bihar, not below the rank of an Assistant sub-inspector of Excise and includes any person empowered by the Government to exercise all or any of the powers of an Excise Officer under these rules;(i)"Form" means a form prescribed under these rules;(j)"Licence" means a licence granted under these rules or any rules framed by the Central Government under the Act;(k)"Licensing Authority" means the Collector of the District; or any other officer authorised by Government; or any authority prescribed by the Central Government under the Act, as the case may be;(l)"Licensed Chemist" means a person who has obtained a licence under these rules for the sale on prescription of narcotic drugs and for the manufacture of narcotic drugs from materials which he is lawfully entitled to possess;(m)"Licensed Dealer" means a person who has obtained a licence under these rules for the sale of narcotic drugs and psychotropic substances otherwise than on prescription/and for manufacture of narcotic drugs from materials which he is lawfully entitled to possess;(n)"Pass" means a pass granted under these rules;(o)"Permit" means a permit granted under these rules;(p)"Prescription" means a prescription given by an approved practitioner for the supply of any narcotic drugs to a patient;(q)"State" means unless the context is otherwise, the State of Bihar and "State Government" or "Government" means, unless the context is otherwise, the Government of the State of Bihar;(r)"Transmission" means, unless the context is otherwise,(i)to import inter-State into Bihar,(ii)to export inter State out of Bihar, and(iii)to transport within Bihar;(s)"Warehouse" means any place or premises licensed or established by the Commissioner of Excise and " Warehouse Officer" means any Excise Officer incharge of such Warehouse.

4. Manufacture.

- A licensed dealer or chemist may, subject to the conditions of his licence, manufacture narcotic drugs which he may lawfully possess under these rules subject to section 9 of the Act and rules made thereunder.

5. Possession.

- Any person may possess such quantity of narcotic drugs as has been at one time dispensed and sold to him for his own use in accordance with the provisions of rule 21 or of corresponding rules for the time being in force in any part of India, outside Bihar subject to the rules framed under Section 9 of the Act.

6.

An approved practitioner may possess narcotic drugs for use in his practice but not for sale: Provided that-(a) he shall keep an accurate record of his dealings in such practice, (b) such record shall be made available for inspection to an excise officer of and above the rank of Sub-Inspector.

7.

An approved practitioner in charge of a hospital or dispensary authorised in this behalf by the Collector by an order made under rule 23 may possess narcotic drugs for use in the hospital or dispensary in such manner as may be specified by such order.

8.

A licensed dealer or licensed chemist may possess in his licensed premises such quantity of narcotic drugs as may be specified in his license.

9.

A person to whom a pass has been granted under these rules for the transmission of narcotic drugs may possess such quantity of such drugs as may be specified in the pass.

10. Transmission

- Any person may transport or import inter-State narcotic drugs which he may lawfully possess under rule 5.

11.

An approved practitioner not incharge of a hospital or dispensary may, subject to rules 6, 17 and 18 import inter-State any narcotic drugs under a pass obtained from the Collector or the Superintendent of Excise.

12.

An approved practitioner incharge of a hospital or dispensary authorised in this behalf by the Collector by an order under rule 23 may, subject to rules 17 and 18, import inter-State or transport within Bihar narcotic drugs for use in the hospital or dispensary on an indent countersigned by - (i) The civil surgeon of the district in which the hospital or dispensary is located., or (ii) The Chief Medical Officer of the Railway administration concerned if the hospital or dispensary is maintained by any Railway, or (iii) The Chief Medical Officer of Health to the Jharia Mines Board of Health if the hospital or dispensary is attached to a colliery within the Jharia Mining settlement, or (iv) The Director or Deputy Director of the Civil Veterinary Department or the officer of the Department incharge of range if the person importing interstate or transporting is incharge of a veterinary hospital.

13.

A licensed chemist or licensed dealer may subject to rules 37 and 18, transmit narcotic drugs for bonafide medicinal purposes under a pass obtained from the Collector: Provided that such a pass shall not be granted for the transmission of any such drug in a quantity exceeding the quantity of such drug which such chemist or dealer may possess in his licensed premises in accordance with his licence.

14.

Nothing in these rules shall be deemed to permit the import of inter-State of any narcotic drug unless the rules, for the time being in force relating to export inter-State of such drugs in the State or Union Territory from which the drugs are brought and the rules regulating transmission in any other State or Union Territory through which the drugs pass have been complied with.

15.

A pass for export inter-State can be issued only on production of a permit from the officer authorised by the rules in force in the place of destination to issue permits for the import inter-State of narcotic drugs.

16.

A person may convey or cause to be conveyed narcotic drugs through Bihar in transit between any two parts of India other than Bihar provided that -(1)he has obtained a pass covering the consignment from the officer authorised by the rules in force in the place of destination to issue passes for the import of narcotic drugs,(2)he sends the consignment in packages securely packed and sealed and does not open any such package during transit except on requisition from the Collector of the district or under orders under section 92 of the Code of Criminal Procedure, 1973.(3)if the consignment is conveyed through any district or districts in Bihar otherwise than as luggage with guard by rail or by insured post he gives intimation thereof to the Collector of each such district before the consignment enters that district.

17.

A person may transmit or cause to be transmitted narcotic drugs by post provided that-(1)he has obtained permit-(a)if the drugs are to be sent to any district in Bihar from the Collector or Superintendent of Excise of that district,(b)in all other cases from the proper authorities in the State or Union Territory to which the drugs are to be sent;(2)he uses only the parcel post and has the parcel insured;(3)he furnishes with the parcel a declaration stating the names of the consignor and consignee, the numbers and dates of licenses held by them the contents of the parcel in detail, the number and date of the permit covering the transmission, and such other particulars as may be prescribed from time to time by Excise Commissioner;(4)he shows distinctly in his account books the name of the consignee and the quantity of drugs sent to him by post.

18.

(1)Every person transmitting narcotic drugs shall comply with such general or special directions as may be specified in any pass under which the transmission may be effected.(2)Every such pass shall be in Form No. 4.

19. Sale

- The Collector may grant to any person a licence for the sale of-(a)all or any narcotic drugs, or(b)any narcotic drug declared to be as such from time to time subject to the rules framed under section 9 of the Act.

20.

(1)A licensed dealer may subject to the conditions of his licence sell otherwise than on prescription-(a)to a licensed dealer or to a licensed chemist,(b)to an approved practitioner for use in his practice,(c)to an approved practitioner in charge of a hospital or dispensary for use in the hospital or dispensary,(d)to any person authorised to purchase the drugs sold by the rules in force in any part of India other than Bihar, any narcotic drugs in quantity not exceeding the quantity which

the purchaser may lawfully possess.(2)Every licensed dealer shall maintain a written record in Form ND 3 of the sale of any such drug and shall plainly mark-(a)every package or bottle containing narcotic drugs with the amount of the drugs in such package or bottle;(b)every package or bottle containing any extract, preparation or admixture of any of the aforementioned drugs-(i)in the case of a powder solution or ointment with the total amount thereof in the package or bottle and the percentage of the drug in the powder solution or ointment;(ii)in the case of the tablets or similar articles other than those mentioned in sub-clause (i) containing any of the aforementioned drugs with quantity of the drug or the substance contained in such tablets or article and number of such tablets or articles in the package or bottle.

21.

(1)A licensed chemist may sell narcotic drugs on prescription subject to the following conditions;-(a)(i)The prescription shall be in writing and shall be dated and signed by the approved practitioner giving it with his full name and address of the person for whose use (or for the use of whose animal) the prescription is given and the total amount of the drug to be supplied,(ii)in the case of a prescription given by a dentist the prescription shall be for dental treatment only and shall bear the words " for local dental treatment only", (iii)In the case of a prescription given by a veterinary practitioner the prescription shall be for treatment of animals only and shall bear the word " for treatment of animals only".(b)A licensed chemist shall not dispense a prescription unless he is acquainted with the signature of the approved practitioner by whom it purports to have been given or is acquainted with the person or the family of the person for whose use or for the use of whose animal the prescription purports to be given and has no reason to suppose that the prescription is not genuine.(c)A licensed chemist shall date and sign prescription at the time when he serves it.(d)A licensed chemist shall not serve narcotic drugs more than once on the same prescription unless it bears a superscription by the approved practitioner who prescribed it stating that it is to be repeated at the intervals of time after which and the number of times (not exceeding thrice) that it is to be repeated. In the absence of such superscription, the prescription shall be retained by the licensed chemist after it has been served once.If the practitioner bears a superscription as aforesaid it is to be retained by the licensed chemist only after it has been served for such times as decided or the number or times fewer than that as mentioned in the prescription and in the same time the person serving it shall sign the prescription on every occasion that he serves it and note the date of every such occasion:Provided that such a prescription prescribed by an approved practitioner for his own use shall not in any case be dispensed more than once.(e)A licensed chemist shall not serve any prescription presented for repetition before the interval specified in the superscription has elapsed since the prescription was last dispensed.(f)A licensed chemist shall keep every prescription on the premises where he dispensed it and shall produce it for inspection by an Excise Officer not below the rank of a Sub-Inspector of Excise.(2)A licensed chemist shall maintain a written report in Form ND 3 of every sale made by him under this rule.

22. Approval, authorization, licenses and passes.

(a)The Commissioner of Excise may for purposes of sub clause (vi) of clause (c) of rule 3 approve any person engaged in medical, dental or veterinary practice.(b)The Collector may approve any

person possessed of the qualification specified in sub-clause (iii) of clause (c) of rule 3.

23.

The Collector may, with the sanction of the Commissioner of Excise by general or special order in Form ND 5 authorize any approved practitioner incharge of a hospital or dispensary to possess, import inter-State into Bihar and transport within Bihar narcotic drugs in such manner as may be specified in such order.

24.

(1)The Collector may grant to any person a dealer's licence in Form ND 1 permitting him to sell narcotic drugs otherwise than on prescription.(2)The Collector may grant to any person a Chemist's licence in Form ND 2 permitting him to sell narcotic drugs which he is lawfully entitled to possess.(3)A fee of rupees fifty shall be charged for the grant of any licence under sub-rules (1) and (2).

25.

(1)Subject to any directions that the Commissioner may give in this behalf, the officer who has granted a licence to or has by order approved or authorised any person under these rules, may cancel or suspend such licence or order-(i)if such person has-(a)failed to pay any duty or fee payable by him, or(b)by himself or by any servant or person acting on his behalf committed any breach of the conditions of such licence or order of these rules, or(c)been convicted of any offence under the Act, or under the law for the time being in force relating, to excise revenue, or of any criminal offence; or(ii)if it is a condition of such licence or order that it may be cancelled or suspended at the will of such officer; or(iii)in any other case not falling either under clause (i) or clause (ii) after giving to such person fifteen days notice;and shall cancel such licence or order within fifteen days of the receipt of a notice, from such person that he desires to surrender the same.(2)When such licence or order is cancelled or suspended such person shall forthwith make over to the Collector all narcotic drugs then in his possession.

26. Disposal of drug's and confiscated articles

- The Collector shall cause all narcotic drugs made over to him on cancellation or suspension of licence or order, to be examined by the Chemical Examiner or by such other officer as the Commissioner may direct. If any such drugs are certified by such officer to be fit for use the Collector may sell them to any dealer or chemist licensed under these rules or under any corresponding rules for the time being in force in any other part of India or to any person authorised by an order under rule or any corresponding rules in force as aforesaid. The sale-proceeds of such drugs shall be paid to the person whose licence has been cancelled or suspended. The Collector may require any licensed dealer or chemist to purchase at such price as the Collector may direct any quantity of such drugs not exceeding such quantity as the Collector may determine to be ordinarily

saleable by him in two months. If any such drugs are certified by the Officer aforesaid to be unfit for use the Collector shall cause them to be destroyed. Note. - All Narcotic drugs and all other articles confiscated under the Act in connection with any offence relating to these rules shall be disposed of in accordance with the rules framed by the Central Government.

27. Issue of subsidiary order.

- Subject to the provision of the Act and of these rules, the Commissioner of Excise may from time to time give such directions as it may think fit for the purpose of carrying out the provisions of these rules.

28. Appeal and revision.

(1) An appeal shall lie to the Commissioner of Excise from an order of a Collector under these rules, if presented to the Commissioner of Excise or to the Collector for transmission to the Commissioner of Excise within thirty days from the date of the order: Provided that every memorandum of appeal relating to cancellation, suspension or withdrawal of a licence for the retail sale of narcotic drugs shall be submitted within 15 days from the date of the order appealed against to the Commissioner of Excise through the Collector against whose order the appeal is made. Such petition of appeal shall invariably be forwarded by the Collector to the Commissioner of Excise within 10 days of its presentation with the original records of the case, if any, and with any observations the officer forwarding it may wish to make thereon. The period for the presentation of appeal shall be counted from the date of the original orders and not from the date of rejection of any subsequent petition for revision. (2) The Board of Revenue may revise any orders passed by a Collector or the Commissioner of Excise: Provided that the application for revision is filed within three months from the date of the orders passed by a Collector or the Commissioner of Excise as the case may be. (3) A petition of appeal from or for revision of any order shall not be entertained unless it is accompanied by the original order or authenticated copy thereof or the omission to produce such order or copy is explained to the satisfaction of the authority to whom the petition is made. (4) An appeal against the order of an Approved Medical Authority other than the Civil Surgeon and Senior Executive Medical Officer passed under sub-rules (1) and (2) of rule 30 shall lie to the Civil Surgeon and Senior Executive Medical Officer of the district, and his order shall be final. (5) An appeal against the order of the Civil Surgeon and Senior Executive Medical Officer of the district under rule 32 will lie to the Collector of the district whose order shall be final.

29. Possession and Oral Consumption of Opium.

- No person shall possess opium for oral consumption except on a permit granted by an approved medical authority under rule 30.

30.

(1) Any person desiring to possess opium for personal oral consumption shall have to present himself

before an approved medical authority. He shall then be subjected to a course of treatment by such medical authority either as an indoor or as an outdoor patient in a hospital maintained by the State or Local Body, with the least possible delay, with a view to cure him of the habit of opium eating. If during the course of treatment, the approved medical authority considers that it is necessary on medical grounds to allow such person consumption of opium orally, he shall issue necessary permit for the same in Form OP-I.(2)If the person addicted to opium is not radically cured of his habit during the course of treatment for the purpose and if there is reason to believe that such person can not be so cured, the approved medical authority will issue a permit in favour of such person in Form OP-II.(3)The aggregate quantity of opium to be prescribed in Form OP-I or OP-II shall not exceed twenty-five grams a month and the quantity that can be possessed at any one time by the permit-holder shall not exceed five grams and such issue will not be made more than once in a week on the appointed day and at the appointed time from the warehouse to which the permit is attached.(4)If any holder of permit in Form OP-I or OP-II is invalid or infirm and not physically fit to go to the warehouse for purchasing his quota of opium, the approved medical authority may make an endorsement to the effect on the body of the permit and also give the name and particular of the agent who will purchase the opium on his behalf.(5)The permit may be renewed after a period of every three months by the approved medical authority issuing the permit and in case such authority feels that an increase in the prescribed quota is necessary, the case shall be referred to the Civil Surgeon and Senior Executive Medical Officer of the district and the quota may be increased with the approval of the latter.(6)The approved medical authority shall forward a list of permits issued in Form No. OP-I and OP-II alongwith the names and particulars of Agents referred to in sub-paragraph (4) above, to the Superintendent of Excise of the district in Form No. OP-III.

31. Warehouse

(1)Warehouse for the sale of opium for oral consumption shall be established at such places as the Commissioner of Excise may, from time to time, direct. The opium for oral consumption required for sale at a warehouse may be obtained from a Government Treasury.(2)The Warehouse Officer on receipt of permit in Form OP-I or OP-II will issue the prescribed quantity of opium to the permit-holder on cash payment after making necessary entries to this effect in the permits. One copy of the permit left with the permit-holder will be treated as a pass for transporting the prescribed quantity of opium. The Warehouse Officer shall maintain an account of stock and sale of opium and for oral consumption in Form OP-IV. The Warehouse Officer shall also maintain an account in Form OP-V showing opium delivered on different dates to each holder of medical permit in Form OP-I or OP-II.(3)Opium for oral consumption shall not be sold at any place except at a warehouse established under rule 31.

32.

If any permit-holder violates any of the conditions of the permit, the Superintendent of Excise of the area concerned may after obtaining written report from the Medical Authority which granted the permit and such further enquiry as may be necessary submit a report to the Civil Surgeon and Senior Executive Medical Officer of the district recommending cancellation, suspension or withdrawal of the permit. The Civil Surgeon and Senior Executive Medical Officer after due

consideration of the facts reported and after such further enquiry, as may be necessary, may cancel the permit or suspend or withdraw it for a specific period. Any such order of cancellation, suspension or withdrawal shall be communicated to the Superintendent of Excise as well as the Warehouse Officer and also to the permit-holder either personally or by registered post and the permit-holder shall, on receipt of such communication, surrender the permit forthwith to the Superintendent of Excise or the Sub-Inspector of Excise having jurisdiction over the area.

33. Acquisition of opium for oral consumption, narcotic drugs and psychotropic substances

(1) Subject to the rules framed or any direction issued by the Central Government under section 9 of the Act or any other provisions thereof, opium for oral consumption, narcotic drugs and psychotropic substances may be acquired by the State Government on its own account in such manner as it may deem fit and necessary. (2) The issue and manner of issue of such opium, narcotic drugs and psychotropic substances shall be determined by the State Government from time to time and published in the official Gazette, subject to the rules or direction of the Central Government as mentioned in sub-rule (1).

34. De-addiction.

(1) The Government may, from time to time, by notification in the official Gazette, establish as many centres as it thinks fit for identification, treatment, education, after-care, rehabilitation, social re-integration of addicts. (2) Such centres will be placed in overall charge of the Civil Surgeon of the district in which they may be situated. (3) The Civil Surgeon of the district shall be assisted by such of his subordinate staff as may be necessary for maintenance, management and superintendence of such centres. (4) Persons identified by the Civil Surgeon as addicts may be registered as such and may be admitted to any of the centres on such fees and on such terms and conditions as may be decided by the Director of Health Services, Bihar, in this behalf considering the state of addiction, in consultation with the Excise Commissioner and with the approval of the Department of Finance, Bihar. (5) The Civil Surgeon of the district, in consultation with the Director of Health Services, Bihar may decide, from time to time, the number of staff of different categories both medical and non-medical in each centre, depending on the number of addicts registered for treatment, education, after-care, rehabilitation and social re-integration, as the case may be. (6) The staff mentioned in the preceding sub-rule (5) may till such time as may be prescribed by the Government be drafted from the existing staff of Government Hospitals for running the centres and their conditions of service including their appointment, training, powers and duties may be laid down by the Government keeping in view their special responsibilities in such centres.

35. Rewards.

- The Board of Revenue in consultation with the Finance Department, Bihar may fix and prescribe, from time to time, by notification in the official Gazette, the scales of rewards admissible and the manner of their payment to the various categories of officers, informers and other persons in

connection with offences against these rules, out of the proceeds of fine and confiscations under the Act, subject to the rules framed by the Central Government in this regard.

36. Miscellaneous

- The Board of Revenue may issue subsidiary instructions for the appointment, training, powers and duties of persons employed in the centres and for supply of opium for oral consumption, narcotic drugs and psychotropic substances from the centres.

37. Repeal and Saving

(1) All rules framed by the State Government under the Opium Act, 1878 and the Dangerous Drugs Act, 1930 are hereby repealed. (2) Notwithstanding such repeal, anything done, any action taken, any, warehouse established/licensed, any licence, pass or permit granted in exercise of the powers conferred by or under the rules referred to in sub-section (1) shall be deemed to have been done/taken, established/licensed and granted under these rules, so far as they are not inconsistent with any of the provisions of the Act or the rules framed thereunder by the Central Government. (3) The licenses, passes, permits and forms already granted or in use on the date on which these rules come into force will continue to be in force till such time, not longer than three months, as they are not substituted by relevant licenses, passes, permits and forms under these rules.