



Drug laws in India

Drug Information Sheet 1

Centre for Narcotics Training
National Academy of Customs, Excise and Narcotics, Faridabad

Director General's Message

The National Academy of Customs, Excise and Narcotics (NACEN) has been mandated to impart training in the three fields of customs, central excise and narcotics. NACEN has been conducting a number of training programmes on various aspects of drug law enforcement at its Faridabad campus as well as its nine Regional Training Institutes at Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Kanpur, Hazaribagh and Vadodara for drug law enforcement officers of various departments.

In order to streamline and strengthen training in the field of narcotics, a Centre for Narcotics Training (CNT) has recently been created in the Academy. We have now started conducting training courses specially designed for officers of the Central Bureau of Narcotics who are responsible for licencing and supervising the licit cultivation of opium. The feedback on our first course is encouraging and we hope to conduct some more courses soon.

This Drug Information Sheet, brought out on the occasion of the International Day Against Drug Abuse and Illicit Drug Trafficking, 26th June 2004, is our endeavour to provide in a nutshell, information about drug laws in the country to drug law enforcement officers of all departments of the central and state governments. The information has been put in as simple and non-legal a language as possible. Any officer who can spare an hour or so reading this, it is hoped, can get a bird's eye-view of the entire drug laws in the country.

This is the first in a series and subsequent Drug Information Sheets would cover more specific topics. I wish this endeavour by the Centre for Narcotics Training all success. Looking forward to a happy, healthy, drug free world.

Parveen Talha

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Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is the anti-drug law of India. This Act prohibits:

- Cultivation of opium poppy, cannabis and coca plants

- Production, manufacture, possession, sale, purchase, transport, warehousing, use, consumption, import, export or transshipment of any narcotic drug or psychotropic substance except for medical and scientific purposes and as per the rules or orders and conditions of licence issued.

NDPS Act empowers central government to frame rules for certain purposes and state governments to frame rules for certain others.

Thus, there are NDPS Rules, 1985 of the central government and state NDPS Rules of different states. Violation of any rule of either the state or central NDPS Rules attracts punishment under the NDPS Act.

OFFENCES AND PENALTIES

OFFENCE	PENALTY	SECTIONS
Cultivation of opium, cannabis or coca plants without licence	Rigorous imprisonment-up to 10 years + fine up to Rs.1 lakh	Opium - 18(c) Cannabis - 20 Coca-16
Embezzlement of opium by licenced farmer	Rigorous imprisonment -10 to 20 years + fine Rs. 1 to 2 lakhs (regardless of the quantity)	19
Production, manufacture, possession, sale, purchase, transport, import inter-state, export inter-state or use of drugs	<p>* Small quantity - R.I. up to 6 months or fine up to Rs. 10,000 or both</p> <p>* More than small quantity but less than commercial quantity - R.I. up to 10 years + fine up to Rs. 1 Lakh</p> <p>* Commercial quantity - R.I. 10 to 20 years + fine Rs. 1 to 2 Lakhs</p> <p>Small and commercial quantities are defined for each drug separately through a notification. Quantities for important drugs are mentioned in a separate table in this information sheet.</p>	<p>Opium - 18 Prepared opium-17 Cannabis - 20 Manufactured drugs or their preparations-21</p> <p>Psychotropic substances - 22</p>
Import, export or transshipment of narcotic drugs and psychotropic substances	Same as above	23
External dealings in NDPS-i.e., engaging in or controlling trade whereby drugs are obtained from outside India and supplied to a person outside india	R.I. 10 to 20 years + fine of Rs. 1 to 2 lakhs (Regardless of the quantity)	24
Knowingly allowing one's premises to be used for committing an offence	Same as for the offence	25
Violations pertaining to controlled substances (precursors)	R.I. upto 10 years + fine Rs. 1 to 2 lakhs	25A
Financing traffic and harbouring offenders	R.I. 10 to 20 years + fine Rs. 1 to 2 lakhs	27A
Attempts, abetment and criminal conspiracy	Same as for the offence	Attempts-28 Abetment and criminal conspiracy - 29
Preparation to commit an offence	Half the punishment for the offence	30
Repeat offence	One and half times the punishment for the offence. Death penalty in some cases.	31 Death - 31A
Consumption of drugs	<p>Cocaine, morphine, heroin - R.I. up to 1 year or fine up to Rs. 20,000 or both</p> <p>Other drugs- Imprisonment up to 6 months or fine up to Rs. 10,000 or both</p> <p>Addicts volunteering for treatment enjoy immunity from prosecution</p>	27 Immunity - 64A
Punishment for violations not elsewhere specified	Imprisonment up to six months or fine or both	32

SMALL AND COMMERCIAL QUANTITIES OF IMPORTANT DRUGS

The punishments for many offences under the NDPS Act depend on the quantity of drug involved- with three levels of punishment for small, more than small but less than commercial and commercial quantities.

Drug	Small quantity	Commercial quantity
Amphetamine	2 grams	50 grams
Buprenorphine	1 gram	20 grams
Charas/Hashish	100 grams	1 kg
Cocaine	2 grams	100 grams
Codeine	10 grams	1 kg
Diazepam	20 grams	500 grams
Ganja	1 kg	20 kg
Heroin	5 grams	250 grams
MDMA (Ecstasy)	0.5 gram	10 grams
Methamphetamine	2 grams	50 grams
Methaqualone (mandrax)	20 grams	500grams
Morphine	5 grams	250 grams
Popy Straw	1 kg	50 kg

* The same quantities apply to preparations of these drugs also.

YOUR POWERS UNDER THE LAW

Officers of the following departments can be empowered by the government by a general or a special order to enforce the NDPS Act:

- ◆ Central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military and armed forces.
- ◆ Revenue, drugs control, excise, police or any other department of the state government .

They enjoy the following powers for enforcement of the Act.

Searches

1. A gazetted officer can authorise any officer subordinate to him (but superior in rank to sepoy, peon or constable) to search any building , conveyance or place by day or night (Section 41 (2)).

2. Any officer superior in rank to sepoy, peon or constable can, without warrant (from a magistrate) or authorisation (from a gazetted officer), search any building , conveyance or place between sunrise and sunset (Section 42). He can also search between sunset and sunrise under certain circumstances.

Seizures

3. Any officer superior in rank to sepoy, peon or constable can seize drugs, materials used in their manufacture, controlled substances (i.e., precursors), conveyances, evidentiary material, etc. (Section 42)

Detention, search and arrest of persons

4. Any officer empowered under Sections 41 and 42 can detain, search and if he thinks proper , arrest , any person whom he has reason to believe to have committed an offence punishable under the Act (Section 42 (1) (d)).

Public Places

5. Any officer of the departments empowered to enforce NDPS Act can search ,seize and arrest in public places (Section 43).

Conveyances

6. Any officer authorised under Section 42 can stop, search, rummage and examine any animal or conveyance. He can compel the animal or conveyance to stop and if all lawful means of stopping it fail, he can fire upon such animal or conveyance (Section 49).

Powers with respect to illegal crops

7. Any gazetted officer empowered under Section 42 (or a magistrate) can attach illegally cultivated opium, cannabis or coca plants and order their destruction (Section 48).

Power to call for information

8. Any officer empowered under Section 42 can during enquiry in connection with any contravention of any provision of the Act-

- Call for information from any person
- Require any person to deliver any document or thing useful for the enquiry
- Examine any person acquainted with the facts and circumstances of the case (Section 67).

Details of training courses conducted by NACEN are available on www.nacen.ernet.in

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YOUR RESPONSIBILITIES UNDER THE LAW

1. Before searching any person, explain to him that he has a right to be searched before a gazetted officer or a magistrate. If he so requires, take him to a gazetted officer or a magistrate before whom he can be searched. (Section 50.) If you have reason to believe that it is not possible to take him to a gazetted officer or a magistrate without giving him a chance to part with the drug, controlled substance, etc. you can search him under Section 100 of the Cr. P. C. (Section 50(5) and 50 (6)).
2. Take down any information given by any person in writing before authorizing a search (Section 41). If the search is under Section 42, also send a copy of the information taken in writing or the grounds of belief for search within 72 hours to your immediate superior officer.
3. Inform the arrested person, as soon as may be, the grounds of his arrest (Section 52 (1)).
4. If a person is arrested or an article has been seized under a warrant issued by a magistrate, forward the person/seized article to that magistrate (Section 52 (2)).
5. If the person has been arrested or the article has been seized otherwise than under a warrant, forward it to the nearest police station or any other officer empowered under section 53 (Section 52 (3)).
6. Assist officers of any other department empowered under Section 42 if they give you a notice or make a request (Section 56).
7. Whenever you arrest any person, make a full report to your superior within 48 hours (Section 57)

IMMUNITIES IN DRUG CASES

1. **Officers** Officers acting in discharge of their duties in good faith under the Act are immune from suits, prosecution and other legal proceedings (Section 69).
2. **Addicts** Addicts charged with consumption of drugs (section 27) or with offences involving small quantities will be immune from prosecution if they volunteer for de-addiction. This immunity may be withdrawn if the addict does not undergo complete treatment (Section 64 A). It is pertinent to note that it is not essential that the drug, if any, found with the addict in small quantity, need not be for personal use.
3. **Offenders** Central or state governments can tender immunity to an offender in order to obtain his evidence in the case. This immunity is granted by the government and not by the court (Section 64).

4. **Minors** All offences committed under any law by persons under the age of 18 will be covered by the Juvenile Persons (Care and protection) Act. This Act seeks to reform such juveniles rather than punish them under the respective Acts. It prevails over any other Act in respect of persons below the age of 18. Hence such persons cannot be prosecuted under the NDPS Act also.

PREVENTIVE DETENTION

Drug traffickers can be detained to prevent their illicit traffic through an executive order issued under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. Proposals for preventive detention along with justification can be sent to Joint Secretary (NC) in the Department of Revenue or to designated detaining authorities of the state governments.

CONTROLLED DELIVERY

Consignments of drugs or precursors can be allowed to pass to reach their ultimate destinations instead of seizing them immediately. This technique, known as 'controlled delivery', helps identify the real persons behind the operation and the ultimate recipients of the illicit consignment. Permission for controlled delivery is essential from the DG, Narcotics Control Bureau under Section 50 A.

FORFEITURE OF ILLEGALLY ACQUIRED PROPERTY

You can never hurt the drug traffickers unless you deprive them of their ill-gotten wealth. Illegally acquired property of drug traffickers, their relatives and associates can be frozen or seized by the investigating officer under Chapter VA of the Act. A quasi-judicial authority called the Competent Authority and Administrator decides the confirmation of such freezing/seizing order and the ultimate forfeiture of the property.

(More on controlled delivery, preventive detention and forfeiture of the property in future Drug Information Sheets)

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