

The Drugs and Magic Remedies (Objectionable Advertisements) Act,
1954 (21 OF 1954) [30th April, 1954]

An Act to control the advertisement
of drugs in certain cases, to prohibit the
advertisement for certain purposes of
remedies alleged to possess magic
qualities and to provide for matters
connected therewith.

1. Short Title, Extent And

Commencement.– (1) This Act may
be called the Drugs and Magic Remedies
(Objectionable Advertisements) Act,
1954.

(2) It extends to the whole of India
except the State of Jammu and Kashmir,
and applies also to persons domiciled
in the territories to which this Act
extends who are outside the said
territories.

(3) It shall come into force on such
date as the Central Government may,
by notification in the Official Gazette,
appoint.

2. Definitions.– In this Act, unless the
context otherwise requires,–

a) ‘advertisement’ includes any notice,
circular, label, wrapper, or other

document, and any announcement
made orally or by any means of
producing or transmitting light,
sound or smoke;

b) 'drug' includes-

(i) a medicine for the internal or
external use of human beings
or animals;

(ii) any substance intended to be
used for or in the diagnosis, cure,
mitigation, treatment or
prevention of disease in human
beings or animals;

(iii) any article, other than food,
intended to affect or influence
in any way the structure or any
organic function of the body of
human beings or animals;

(iv) any article intended for use as a
component of any medicine,
substance or article, referred to
in sub-clauses (i), (ii) and (iii);

c) 'magic remedy' includes a talisman,
mantra, kavacha, and any other
charm of any kind which is alleged
to possess miraculous powers for or
in the diagnosis, cure, mitigation,

treatment or prevention of any
disease in human beings or animals
or for affecting or influencing in
any way the structure or any organic
function of the body of human
beings or animals;

[(cc) 'registered medical practitioner'

means any person,–

(i) who holds a qualification
granted by an authority specified
in, or notified under, section 3
of the Indian Medical Degrees
Act, 1916 (7 of 1916) or
specified in the Schedules to the
Indian Medical Council Act,
1956 (102 of 1956); or
(ii) who is entitled to be registered
as a medical practitioner under
any law for the time being in
force in any State to which this
Act extends relating to the
registration of medical
practitioners;]

d) 'taking any part in the publication
of any advertisement' includes–

(i) the printing of the
advertisement;

(ii) the publication of any advertisement outside the territories to which this Act extends by or at the instance of a person residing within the said territories.

3. Prohibition of Advertisement of Certain Drugs for Treatment of Certain Diseases and Disorders.–

Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the use of that drug for –

- a) the procurement of miscarriage in women or prevention of conception in women; or
- b) the maintenance or improvement of the capacity of human beings for sexual pleasure; or
- c) the correction of menstrual disorder in women; or
- d) the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any

other disease, disorder or condition
(by whatsoever name called) which
may be specified in the rules made
under this Act:

Provided that no such rule shall be
made except,–

(i) in respect of any disease, disorder
or condition which requires timely
treatment in consultation with a
registered medical practitioner or for
which there are normally no
accepted remedies, and

(ii) after consultation with the Drugs
Technical Advisory Board
constituted under the Drugs and
Cosmetics Act, 1940 (23 of 1940)
and, if the Central Government
considers necessary, with such other
persons having special knowledge
or practical experience in respect of
Ayurvedic or Unani systems of
medicines as that Government
deems fit.]

4. Prohibition of Misleading

Advertisements Relating to Drugs.–

Subject to the provisions of this Act, no
person shall take any part in the

publication of any advertisement relating to a drug if the advertisement contains any matter which a) directly or indirectly gives a false impression regarding the true character of the drug; or b) makes a false claim for the drug; or c) is otherwise false or misleading in any material particular.

5. Prohibition of Advertisement of Magic Remedies for Treatment of Certain Diseases and Disorders.– No person carrying on or purporting to carry on the profession of administering magic remedies shall take any part in the publication of any advertisement referring to any magic remedy which directly or indirectly claims to be efficacious for any of the purposes specified in section 3.

6. Prohibition of Import into, and Export from, India of Certain Advertisements.– No person shall import into, or export from, the territories to which this Act extends any document containing an advertisement

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of the nature referred to in section 3, or
section 4, or section 5, and any
documents containing any such
advertisement shall be deemed to be
goods of which the import or export
has been prohibited under section 19
of the Sea Customs Act, 1878 (8 of
1878) and all the provisions of that Act
shall have effect accordingly, except that
section 183 thereof shall have effect as
if for the word 'shall' therein the word
'may' were substituted.

7. Penalty.– Whoever contravenes any
of the provisions of this Act [or the
rules made there under] shall, on
conviction, be punishable –

a) in the case of a first conviction, with
imprisonment which may extend to
six months, or with fine, or with
both;

b) in the case of a subsequent
conviction, with imprisonment
which may extend to one year, or
with fine, or with both.

8. Powers of Entry, Search, etc.– (1)

Subject to the provisions of any rules
made in this behalf, any Gazetted Officer

authorised by the State Government
may, within the local limits of the area
for which he is so authorized,–

a) enter and search at all reasonable
times, with such assistants, if any, as
he considers necessary, any place in
which he has reason to believe that
an offence under this Act has been
or is being committed;

b) seize any advertisement which he
has reason to believe contravenes
any of the provisions of this Act:

Provided that the power of
seizure under this clause may be
exercised in respect of any
document, article or thing which
contains any such advertisement,
including the contents, if any, of such
document, article or thing, if the
advertisement cannot be separated
by reason of its being embossed or
otherwise, from such document,
article or thing without affecting the
integrity, utility or saleable value
thereof;

c) examine any record, register,
document or any other material

object found in any place mentioned
in clause (a) and seize the same if
he has reason to believe that it may
furnish evidence of the commission
of an offence punishable under this
Act.

(2) The provisions of the Code of
Criminal Procedure, 1898 (5 of 1898)
shall, so far as may be, 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 the said Code.

(3) Where any person seizes
anything under clause (b) or clause (c)
of sub-section (1), he shall, as soon as
may be, inform a Magistrate and take
his orders as to the custody thereof.]

9. Offences By Companies.– (1) If
the person contravening any of the
provisions of this Act is a company, every
person who, at the time the offence was
committed, was in charge of, and was
responsible to, the company for the
conduct of the business of the company
as well as the company shall be deemed
to be guilty of the contravention and

shall be liable to be proceeded against
and punished accordingly:

Provided that nothing contained in
this sub-section shall render any such
person liable to any punishment
provided in this Act if he proves that
the offence was committed without his
knowledge or that he exercised all due
diligence to prevent the commission of
such offence.

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(2) Notwithstanding anything
contained in sub-section (1) where an
offence under this Act has been
committed by a company and it is proved
that the offence was committed with
the consent or connivance of, or is
attributable to any neglect on the part
of, any director or manager, secretary
or the officer of the company, such
director, manager, secretary or other
officer of the company shall also be
deemed to be guilty of that offence and
shall be liable to be proceeded against
and punished accordingly.

Explanation.– For the purposes of
this section,–

- a) 'company' means any body
corporate and includes a firm or
other association of individuals, and
b) 'director' in relation to a firm means
a partner in the firm.

[9a. Offences to be Cognizable.–

Notwithstanding anything contained in
the Code of Criminal Procedure, 1898
(5 of 1898), an offence punishable
under this Act shall be cognizable.]

10. Jurisdiction To Try Offences.– No
court inferior to that of a Presidency
Magistrate or a Magistrate of the first
class shall try any offence punishable
under this Act.

[10A. Forfeiture.– Where a person has
been convicted by any court for
contravening any provision of this Act
or any rule made thereunder, the court
may direct that any document (including
all copies thereof), article or thing, in
respect of which the contravention is
made, including the contents thereof
where such contents are seized under
clause (b) of sub-section (1) of section
8, shall be forfeited to the Government.]

11. Officers to be Deemed to be

Public Servants.– Every person authorized under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

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

13. Other Laws Not Affected.– The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

14. Saving.– Nothing in this Act shall apply to –

- a) any signboard or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in section 3, the Schedule or the rules made under this Act is undertaken in those premises; or
- b) any treatise or book dealing with any of the matters specified in

section 3 from a bona fide scientific
or social standpoint; or
c) any advertisement relating to any
drug sent confidentially in the
manner prescribed under section 16
only to a registered medical
practitioner; or
d) any advertisement relating to a drug
printed or published by the
Government; or
e) any advertisement relating to a drug
printed or published by any person
with the previous sanction of the
Government granted prior to the
commencement of the Drugs and
Magic Remedies (Objectionable
Advertisements) Amendment Act,
1963 (42 of 1963):
Provided that the Government
may, for reasons to be recorded in
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writing, withdraw the sanction after
giving the person an opportunity of
showing cause against such
withdrawal.]
15.Power to Exempt from
Application of Act.– If in the opinion

of the Central Government public interest requires that the advertisement of any specified drug or class of drugs [or any specified class of advertisements relating to drugs] should be permitted, it may, by notification in the Official Gazette, direct that the provisions of sections 3, 4, 5 and 6 or any one of such provisions shall not apply or shall apply subject to such conditions as may be specified in the notification to or in relation to the advertisement of any such drug or class of drugs [or any such class of advertisements relating to drugs].

16. Power to Make Rules.– (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may specify any [disease, disorder or condition] to which the provisions of section 3 shall apply;

b) prescribe the manner in which advertisements of articles or things

referred to in clause (c) of section

14 may be sent confidentially.

[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each of House of Parliament while it is in session for a total period of thirty days which be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]