

**BOMBAY ACT No. XI OF 1960.<sup>1</sup>**

[THE BOMBAY DRUGS (CONTROL) ACT, 1959.]

(Received the assent of the President on the 4th February 1960; assent first published in the *Maharashtra Government Gazette*, Part IV, on the 9th February 1960)

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 51 of 1971.

Amended by Mah. 52 of 1973 (14-1-1974)\*

**An Act to provide for the control in the interests of the general public, of the sale, possession, transport and use of certain drugs.**

WHEREAS it is expedient to provide for the control, in the interest of the general public, of the sale, possession, transport and use of certain drugs, and for certain other purposes ; It is hereby enacted in the Tenth-year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Drugs (Control) Act, 1959.

(2) It extends to the whole of the <sup>2</sup>[State of Maharashtra.]

(3) It shall come into force on such date <sup>3</sup>as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires—

(a) "Collector" includes any person appointed by the State Government to exercise all or any of the powers or to perform or discharge all or any of the duties or functions, of a Collector under this Act ;

(b) "dealer" means a licensed wholesaler, or licensed retailer ;

<sup>4</sup>[(c) "Commissioner" means the Commissioner of Prohibition and Excise appointed under the Bombay Prohibition Act, 1949 and includes any officer on whom the State Government may confer all or any of the powers, duties and functions of the Commissioner under this Act ;]

(d) "drug" means (i) a medicine for internal or external use of human beings or animals, or (ii) substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals, to which medicine or substances this Act is declared to be applicable under sub-section (1) of section 6 ;

(e) "household" means a group of persons normally residing and messing jointly as members of one domestic unit, but does not include a servant ;

(f) "licensed retailer" means a retailer holding a licence under section 7 ;

(g) "licensed wholesaler" means a wholesaler holding a licence under section 7 ;

(h) "medical practitioner" means a person who practises any system of medicine (including surgery and obstetrics), and is registered in any register, or is entered on any list, maintained under any law for the time being in force which entitles him to practise in the State, or is otherwise by or under any such law entitled or allowed to practise in the State ; and includes a registered dentist within the meaning of the Dentists Act, 1948, and also a registered veterinary practitioner within the meaning of the Bombay Veterinary Practitioners Act, 1953, or any law corresponding thereto in force in any part of the State ;

(i) "notified drug" means a drug which has been notified by the State Government to be a notified drug under section 6 ;

(j) "prescribed" means prescribed by rule made under this Act ;

(k) "prescription" means a prescription issued by a medical practitioner ;

(l) "retailer" means a person who carries on the business of selling any notified drug otherwise than by wholesale, and does not include a medical practitioner ; and the expression "to sell by retail" shall be construed accordingly ;

(m) "State" means the <sup>2</sup>[State of Maharashtra] ;

(n) "to transport" means to move from one place to another, within the State ;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1959, Part V, page 497.

<sup>2</sup> These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>3</sup> 1st day of January 1962 (*vide* G.N., H. D., No. BDC. 1059/37596-III, dated 18th November 1961).

<sup>4</sup> This clause was substituted by Mah. 52 of 1973, s. 3, Sch.

\* This indicates the date of commencement of Act.

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(o) "wholesaler" means a person who carries on the business of selling any notified drug for the purpose of resale; and the expression "to sell by wholesale" shall be construed accordingly.

<sup>1</sup>[Commissioner] of Prohibition and Excise. 3. The <sup>1</sup>[Commissioner] shall be subject to the control of the State Government and shall, subject to such general or special orders as the State Government may, from time to time, give or issue, exercise such powers, perform such duties and discharge such functions as are conferred or imposed upon him, by or under the provisions of this Act and he shall superintend the administration and carry out generally the provisions of this Act.

Powers of Collector. 4. (1) A Collector shall, within the limits of his jurisdiction, exercise such powers, perform such duties, and discharge such functions, as are conferred or imposed upon him by or under the provisions of this Act.

(2) The State Government may, by notification in the *Official Gazette*, appoint any person other than the Collector to exercise in any district or place all or any of the powers and perform all or any of the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the <sup>1</sup>[Commissioner] and of the State Government as the State Government may from time to time direct.

Control of the <sup>1</sup>[Commissioner] on officers empowered under this Act. 5. In the exercise of their powers and the performance or discharge of their duties and functions under the provisions of this Act, or the rules or orders made thereunder, all officers empowered under this Act shall, subject to the general or special order of the State Government, be subordinate to and under the control of the <sup>1</sup>[Commissioner] and shall be bound to follow such orders as he may from time to time give or issue.

Drugs to which this Act applies and notified drugs. 6. (1) The State Government may, by notification in the *Official Gazette*, declare any drug to be a drug to which this Act applies.

(2) If the State Government is satisfied that a drug is used in a manner injurious to health, the State Government may, by notification in the *Official Gazette*, specify such drug as a notified drug.

Regulation of business of wholesaler or retailer in notified drugs. 7. From such date as may be fixed by the State Government by notification in the *Official Gazette* in this behalf, no person shall carry on the business of a wholesaler or retailer in any notified drug except under, and in accordance with the terms and conditions of a licence granted by the Collector under this Act.

Sale by retailer. 8. No licensed retailer shall sell any notified drug unless such drug has been obtained by him from a licensed wholesaler.

Power of dealer to sell to medical practitioner and person authorised under section 14; sale by medical practitioner. 9. (1) Subject to the provisions of section 10, a dealer may sell any notified drug to a medical practitioner, or to a person authorised under section 14.

(2) No medical practitioner shall sell any notified drug unless the drug has been obtained by him from a dealer.

Maximum quantity of sale by dealer. 10. No dealer shall sell by wholesale or retail, in any one transaction, any notified drug to any person in excess of such quantity or quantities as the State Government may, by notification in the *Official Gazette*, determine for the purpose:

<sup>1</sup> This word was substituted for the word "Director" by Mah. 52 of 1953, s. 3. Sch.

Provided that, in determining the maximum quantity of a notified drug which may be sold, the State Government may fix different maxima for the sale of different notified drugs, and in respect of sales by different classes of wholesalers and retailers to different persons or classes of persons.

11. (1) A licensed retailer shall not supply any notified drug in his possession to any person (not being a medicinal practitioner or a person duly authorised under section 14) for a purpose other than a *bona fide* medical purpose, and except on a prescription issued by a medical practitioner. Licensed retailer and medical practitioner not to supply notified drug for purposes other than medicinal and except under prescription.

(2) A medical practitioner shall not supply any notified drug in his possession to any person for a purpose other than a *bona fide* medicinal purpose, and except under a prescription issued by him or another medical practitioner.

(3) Any prescription issued for the purpose of sub-section (1) or (2) or copies thereof and other records shall be maintained in such manner, and preserved for such period, as may be prescribed.

12. (1) Subject to the provisions of section 14, no person shall have in his possession any notified drug— Regulation of possession of notified drug.

(a) (i) if he be a dealer, at any one time or during such period or periods as the State Government may specify, or

(ii) if he be a medical practitioner, at any one time save with the previous permission of the Collector in writing, in excess of such quantity or quantities as the State Government may, by notification in the *Official Gazette*, determine in this behalf ;

(b) if he is not a dealer or medical practitioner, in excess of such quantity as has been at any one time dispensed or sold on prescription for a *bona fide* medicinal use to him or to a member of his household, except under a permit granted by an officer duly empowered by the State Government in this behalf : Provided that nothing in this clause shall apply to a traveller entering the State from any place outside it and possessing a notified drug for *bona fide* medicinal use of himself or of the members of his household, accompanying him.

(2) In fixing the maximum quantity of a notified drug which may be possessed under this section the State Government may fix different maxima for the possession of different notified drugs, and in respect of their possession by different classes of wholesalers and retailers.

13. Subject to the provisions of this section and section 14, no person— Regulation of transport of notified drug.

(a) being a dealer, shall transport any notified drug, except under a pass granted by an officer duly empowered by the State Government in this behalf ;

(b) being a medical practitioner, shall transport any notified drug in excess of the quantity which he is permitted to possess under the provisions of clause (a) of sub-section (1) of section 12 ;

(c) being a person other than a dealer or medical practitioner, shall transport any notified drug in excess of the quantity which has been at any one time dispensed or sold on prescription for the *bona fide* medicinal use of himself or of a member of his household, except under a pass granted by an officer duly empowered by the State Government in this behalf :

Provided that, nothing in this section shall apply to—

(a) a traveller entering the State from any place outside it, and possessing a notified drug for *bona fide* medicinal use of himself or of a member of his household accompanying him : or

(b) through transport of any notified drug from a place outside the State of Bombay, to another place outside thereof.

Regulation of possession or transport of notified drugs by certain persons.

14. Notwithstanding anything contained in section 12 or 13, the Collector may, by a general or special order, authorise—

(a) any person in charge of management of a hospital or dispensary, to possess or transport,

(b) any person in charge of an educational institution, to possess or transport for use for educational purpose only,

(c) any person engaged in scientific research, to possess or transport for use for scientific research only,

(d) a pilot of an aircraft, to possess or transport for use in an emergency on the aircraft,

(e) any person in charge of an ambulance or first-aid station or first-aid box, to possess or transport for use in an emergency,

(f) a chemist to possess or transport, for use in dispensing as an ingredient of a medicine,

(g) any manufacturer of a medicine to possess or transport, for use in the manufacture thereof,

any notified drug in such quantity, in such manner, and subject to such conditions as may be specified in such order.

Sale, possession and transport of notified drug by any person on account of another.

15. (1) Whenever any notified drug is sold, possessed or transported by any person on account of any other person, and such other person knows or has reason to believe that such sale, possession or transport is on his account, the notified drug, shall for the purposes of this Act be deemed to have been sold possessed or transported also by such other person.

(2) Nothing in sub-section (1) shall absolve any person from liability to any punishment under this Act for the unlawful sale, possession or transport of such notified drug.

Regulation of sale, etc. of notified drugs for purposes of sample.

16. Nothing in this Act shall apply to the sale, possession or transport in the normal course of business by a *bona fide* chemist, druggist or manufacturer of drugs or by his servant or agent duly authorised by him in this behalf or any notified drug, not exceeding such quantity as may be prescribed for the purposes of sample.

Sale memorandum to be given in respect of sales.

17. (1) Every dealer when selling any notified drug shall give to the purchaser a memorandum of sale containing particulars of the sale, and obtain the purchaser's signature on the counterfoil of such memorandum.

(2) The State Government may, by notification in the *Official Gazette*, prescribe the other particulars to be contained in such memorandum of sale and counterfoil thereof.

18. (1) The Collector may, after giving the holder of a licence, permit or pass granted or issued under this Act, a reasonable opportunity of being heard, suspend such licence, permit or pass for such period as may be necessary, or cancel the same, — Power to suspend or cancel licence, etc.

(a) if any fee payable by the holder thereof has not been duly paid;

(b) in the event of any breach by the holder of such licence, permit or pass or by his servant or anyone with his express or implied permission on his behalf of any of the terms and conditions of such licence, permit or pass;

(c) if the holder of such licence, permit or pass or any person in the employ of such holder, or any person acting with his express or implied permission on his behalf, is convicted of an offence under this Act, or if the holder thereof is convicted of an offence, under the Bombay Prohibition Act, 1949 or under the Dangerous Drugs Act, 1930, or the Drugs Act, 1940.

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(2) If the licence, permit or pass is suspended or cancelled for any reason, the holder thereof shall not be entitled to any compensation for such suspension or cancellation, or to the refund of any fee paid in respect thereof.

(3) The Collector may refuse to grant a licence, permit or pass to any person if—

(a) a licence, permit or pass granted to such person under this Act has been previously suspended or cancelled, or

(b) such person has been convicted of any offence punishable under this Act or the Bombay Prohibition Act, 1949 or under the Dangerous Drugs Act, 1930, or the Drugs Act, 1940.

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(4) The Collector may also refuse to grant a licence, permit or pass to any firm of which the person referred to in sub-section (3) is a partner, or to any person to whom the business of such person has been transferred.

19. No person shall wilfully—

Evasion of provisions.

(a) give any false information, or

(b) refuse to give any information lawfully demanded from him under this Act or the rules or orders made thereunder, or

(c) with a view to preventing the disclosure of any information contained therein alter by cancellation, or otherwise destroy, mutilate or deface any book, register, licence, permit, pass or other document.

20. The <sup>1</sup>[Commissioner] or Collector or any officer empowered in this behalf by the State Government may, by order, direct any person to furnish to any specified authority or person, any such information in his possession concerning any notified drugs, as may be specified in the order. Power to obtain information.

21. (1) Whoever contravenes any of the provisions of this Act or of any rule, order or notification made or issued thereunder, or fails to comply with any direction made under authority conferred by this Act, shall ; on conviction, be punished— Penalty.

(i) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees ;

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

<sup>1</sup> This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

(iii) for a third or subsequent offence, with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, such imprisonment shall not be less than one year and fine shall not be less than two thousand and five hundred rupees.

(2) In the event of any breach by the holder of any licence, permit or pass granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit or pass, such holder shall, in addition to the cancellation or suspension of the licence, permit, or pass granted to him, be punished, on conviction, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit or pass, shall be liable to the same punishment.

Offences by  
companies.

22. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence 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, 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.

(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 has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer 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.

Magistrate's  
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23. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or a Magistrate of the First Class specially empowered by the State Government in this behalf to pass any sentence authorised under section 21 in excess of his powers under section 32 of the said Code.

24. Whenever any offence punishable under this Act has been committed,— Things liable to confiscation.

(a) any notified drug in respect of which the offence has been committed,

(b) any notified drug lawfully transported or in the possession of the offender along with, or in addition to, the notified drug in respect of which the offence has been committed,

(c) the receptacles, packages and coverings in which any notified drug referred to in clause (a) or clause (b), is found and the other contents, if any, of such receptacles, packages and covering and the animals, carts, vessels or other conveyance used in carrying any such notified drug,

shall be liable to confiscation.

25. (1) Where during the trial of a case for an offence under this Act, the Court decides that anything is liable to confiscation under section 24, the Court may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or in the case of any article other than a notified drug give the owner an option to pay such fine as the Court deems fit in lieu of confiscation : Procedure in confiscation.

Provided that, no animal, cart, vessel, vehicle or other conveyance shall be confiscated if the owner thereof satisfies the Court that he had exercised due care in preventing the commission of the offence.

(2) Where an offence under this Act has been committed, and the offender is not known or cannot be found, or where anything liable to confiscation under this Act is found or seized, the <sup>1</sup>[Commissioner], Collector or any other officer authorised by the State Government in this behalf may make an inquiry and, if after such inquiry is satisfied that an offence has been committed, may order the thing found or seized to be confiscated :

Provided that, no such order shall be made before the expiry of one month from the date of finding or seizure, or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

(3) Where any article found or seized under this section is liable to speedy and natural decay, or if the Court, <sup>1</sup>[Commissioner], Collector, or the officer authorised by the State Government in this behalf, is of opinion that the sale would be for the benefit of the owner, the Court, <sup>1</sup>[Commissioner], Collector, or the officer may at any time direct it to be sold, and the provisions of this section shall apply so far as may be to the net proceeds of the sale :

Provided that, in the case of anything liable to speedy and natural decay, the Court or officer concerned may order it to be destroyed if in its or his opinion such order is expedient in the circumstances of the case.

26. (1) For the purposes of this Act, the <sup>1</sup>[Commissioner] may, by notification in the *Official Gazette*, appoint such persons or officers as he thinks fit, to be Inspectors within such local limits as he may assign to them. Inspectors and procedure.

(2) No offence under this Act shall be investigated except by an Inspector appointed under sub-section (1).

27. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction <sup>2</sup>[in any area for which a Commissioner of Police is appointed, of the Commissioner of Police] and elsewhere of the District Magistrate. No prosecution without sanction.

<sup>1</sup> This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

<sup>2</sup> These words were substituted for the words " in Greater Bombay, of the Commissioner of Police " by Mah. 51 of 1971, s. 2.

Power to search and seize.

**28.** An Inspector may enter and search any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed and may seize any notified drugs and other things which he has reason to believe to be liable to confiscation under this Act, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act ; and he may detain and search any person whom he has reason to believe to have committed an offence punishable under this Act.

Power to search and seize notified drugs, etc., in open place.

**29.** An Inspector or any person authorised in this behalf by the State Government, may—

(a) seize in any open place, or in transit, any notified drug or any other thing which he has reason to believe to be liable to confiscation under this Act ;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any notified drug or any other thing in his possession, which he has reason to believe to be liable to confiscation under this Act, seize it.

Procedure for search and seizure.

**30.** The provisions of the Code of Criminal Procedure, 1898, shall, so far as they 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.

Power to inspect premises of licensed dealers.

**31.** (1) The <sup>1</sup>[Commissioner] or Collector, or any officer duly authorised in this behalf by the State Government, may—

(a) require a dealer, or a person in the employ of such dealer or acting with his express or implied permission, on his behalf, to produce the licence issued under this Act under which he carries on the business of a wholesaler or retailer in notified drugs ;

(b) enter and inspect, at any time by day or night, any shop or premises in which a dealer or medical practitioner stores or sells or dispenses notified drugs, and examine, test, measure or weigh any stock of any such notified drugs or cause any such stock to be examined, tested, measured or weighed and may take a sample (on payment therefor) for the purpose in accordance with rules made in that behalf.

(2) If such officer finds that the holder of a licence issued under this Act, or a person in the employ of such holder, or acting with his express or implied permission on his behalf, wilfully does, or omits to do, anything which is an offence under this Act, such officer may seize any stock or notified drug in respect of which the offence is committed, and shall forthwith send a report to his official superior for such action as he deems fit.

Appeals.

**32.** (1) All orders passed under this Act by any officer other than the Collector or the <sup>1</sup>[Commissioner] shall be appealable to the Collector, at any time within sixty days from the date of the order complained of.

(2) All orders passed by the Collector and the <sup>1</sup>[Commissioner] shall be appealable to the <sup>1</sup>[Commissioner] and the State Government, respectively, at any time within ninety days from the date of the order complained of :

Provided that, no appeal shall lie against an order passed by the <sup>1</sup>[Commissioner] on appeal.

<sup>1</sup> This word was substituted for the words " Director " by Mah. 52 of 1973, s. 3, Sch.

(3) Subject to the foregoing provisions, in deciding appeals under this section, the Collector and the <sup>1</sup>[Commissioner] shall follow such procedure as may be prescribed.

33. The State Government may call for and examine the record of any proceedings before any officer exercising any power or performing or discharging any duty or function under this Act (including that relating to the grant or refusal of a licence, permit or pass), for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, such proceedings, and may either annul, reverse, modify or confirm such order, or pass such other order as it may deem fit. Revision.

34. No suit or proceeding shall lie against the Government or against any officer or against any person empowered to exercise powers or to perform duties or discharge functions under this Act, for anything in good faith done or purporting to be done under this Act. Bar of Proceedings.

35. Any Inspector or person authorised by the State Government under section 29, who— Punishment for vexatious entry, search or seizure.

(a) without reasonable grounds of suspicion enters or searches or causes to be entered or searched, any building, vessel or place ; or

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any notified drug or other article liable to be confiscated under section 24 or of seizing any document or other article liable to seizure under section 28 or 29 ; or

(c) vexatiously and unnecessarily detains or searches any person,

shall be punished with fine which may extend to five hundred rupees.

36. All prosecutions of any officer or person empowered to exercise powers or to perform duties or discharge functions under this Act, and all actions which may be lawfully brought against the Government or any of the aforesaid officers or persons in respect of anything done or alleged to have been done in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards ; and any such action shall be dismissed— Limitation of prosecutions or suits against officers.

(a) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals or applications for revision allowed by or under this Act or by or under any other law for the time being in force, as within the aforesaid period of four months it was possible to present ; or

(b) in the case of an action for damages, if the tender of sufficient amends has been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant.

37. Notwithstanding anything contained in this Act or the rules, notifications or orders made or issued thereunder, the State Government may, by general or special order,— General powers of State Government.

(a) exempt, subject to such conditions as it may deem fit to impose, any person or class of persons, or any institution or class of institutions, from the operation of all or any of the provisions of the Act, or any rules or orders made, or any condition of a licence, permit or pass granted, thereunder ;

<sup>1</sup> This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

(b) prescribe the number of places at which any notified drug specified in such order may be sold in any area ;

(c) prescribe the procedure to be followed before granting any licence, pass or permit ;

(d) specify the persons or classes of persons to whom licences or permits or passes under this Act may or may not be granted ;

(e) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits or passes under this Act as it may deem proper ;

(f) prohibit the disposal of any notified drug except in such circumstances and under such conditions, as may be specified in the order ;

(g) direct the sale of any notified drug to any dealer or class of dealers, and in such quantities as may be specified in the order ; and

(h) issue such further directions as appear to it to be necessary or expedient in connection with any order made under this section.

**Delegation.** 38. The State Government may, by notification in the *Official Gazette*, direct that any power exercisable by it or by the [Commissioner] or Collector under this Act shall, subject to such conditions (if any) as may be specified in the notification, be exercisable also by any officer specially empowered in this behalf by the State Government.

**Provisions of this Act not to apply to notified drugs which are the property of Government.** 39. Save as may be expressly provided in any rule or order made under this Act, nothing in this Act shall apply to notified drugs which are the property of, and in the possession of or on behalf of, Government :

Provided that, such drugs shall not be sold or delivered to any person who, under the provisions of this Act or under any rules or orders made thereunder, is not entitled to their possession.

**Power to make rules.** 40. (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular, but without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which prescriptions or copies thereof and other record shall be maintained and the period for which they shall be preserved, by medical practitioners and licensed retailers, under section 11 ;

(b) prescribing the quantity of notified drug for the purposes of sample under section 16 ;

(c) prescribing the other particulars to be contained in a memorandum of sales under section 17 ;

(d) the manner in which, and conditions subject to which, samples may be taken and the procedure to be followed therefor under clause (b) of sub-section (1) of section 31 ;

(e) prescribing the procedure to be followed in deciding appeals under section 32 ;

(f) prescribing the number of places at which any notified drug may be sold in any area and the procedure to be followed before granting licences, permits and passes ;

<sup>1</sup> This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

(g) prescribing the forms of licences, permits or passes granted under the Act, the terms and conditions on which such licences, permits or passes may be granted, the forms of applications for such licences, permits or passes, and the fees payable in respect thereof;

(h) the maintenance and preservation by dealers generally, or by any class of dealers of records and accounts of all sale and purchase transactions made by them, or of the stocks of notified drugs in their possession;

(i) the furnishing of any such information as may be required with respect to the business or profession carried on by any dealers or any medical practitioner;

(j) prescribing the accounts to be maintained and the returns to be submitted by a licence-holder, pass-holder, permit-holder or medical practitioner;

(k) the inspection of any books of accounts or other documents relating to notified drugs belonging to or under the control of any dealers or medical practitioners;

(l) the regulation or prohibition of the transfer of licences;

(m) requiring the entering of the names and addresses, and the taking of signatures of purchasers in the register of sale of any notified drug;

(n) the disposal of confiscated articles;

(o) any other matter which is to be or may be prescribed under this Act.

(3) The power to make rules under this section shall be subject to the condition of previous publication :

Provided that, any such rules may be made without previous publication, if the State Government considers that they should be brought into force at once.

(4) All rules made under this Act shall be laid for not less than thirty days before each House of the State Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

Bom. 41. On and from the commencement of this Act, the Bombay Drugs (Control) Act, 1952, the Central Provinces and Berar Drugs (Control) Act, 1949, the Saurashtra Drugs (Control) Ordinance, 1949 and the Drugs (Control) Act, 1950, in its application to the Kutch area of the State of Bombay shall stand repealed :

Repeals and Savings.  
XX-IX of 1952.  
C. P. and Berar XLV-II of 1949. Sau. Ord. LXI of 1949. 26 of 1950.

Provided that such repeal shall not affect or be deemed to affect—

(a) the previous operation of any law so repealed or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability already acquired, accrued or incurred under any law so repealed, or

(c) any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed;

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment, notification, order, direction, rule or form made or issued, or cash memorandum given) under any law so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made, issued or given under the provisions of this Act and shall continue in force accordingly unless and until it is superseded by anything done or action taken under this Act.

Saving of other laws. **42.** Subject to the provisions of section 41, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to any matters dealt with in this Act.

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