**IV:Offences And Penalties**[[edit](https://en.wikipedia.org/w/index.php?title=Narcotic_Drugs_and_Psychotropic_Substances_Act,_1985&action=edit&section=7)]

Chapter IV describes offences under the Act, and the punishments to be applied for contravening provisions of the Act. The various sections under this chapter prescribe a minimum term of rigorous imprisonment of 10 years, which may extend to 20 years for offenders, and also a fine which shall not be less than one lakh rupees but which may extend to two lakh rupees. In all cases, the court may impose a higher fine, for reasons to be recorded in the judgment.

**15. Punishment for contravention in relation to poppy straw**

Any person who contravenes any provision of this Act, or any rule or order made or condition of a license granted thereunder, produces, possesses, transports, imports inter-State, exports inter-State, sells, purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees. The court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

**16. Punishment for contravention in relation to coca plant and coca leaves**

Any person who contravenes any provision of this Act, or any rule or order made or condition of license granted thereunder, cultivates any coca plant or gathers any portion of a coca plant or produces, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses coca leaves, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**17. Punishment for contravention in relation to prepared opium**

Any person who contravenes any provision of this Act, or any rule or order made or condition of license granted thereunder manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses prepared opium shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**18. Punishment for contravention in relation to opium poppy and opium**

Any person who contravenes any provision of this Act, or any rule or order made or condition of license granted thereunder cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses opium shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**19. Punishment for embezzlement of opium by cultivator**

Any cultivator licensed to cultivate the opium poppy on account of the Central Government who embezzles or otherwise illegally disposes of the opium produced or any part thereof, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**20. Punishment for contravention in relation to cannabis plant and cannabis**

Any person who contravenes any provision of this Act or any rule or order made or condition of license granted thereunder, cultivates any cannabis plant; or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable:

* where such contravention relates to ganja or the cultivation of cannabis plant, with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to fifty thousand rupees;
* where such contravention relates to cannabis other than ganja, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees and which may extend to two lakh rupees.

**21. Punishment for contravention in relation to manufactured drugs and preparations.**

Any person who contravenes any provision of this Act, or any rule or order made or condition of license granted thereunder manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**22. Punishment for contravention in relation to psychotropic substances.**

Any person who contravenes any provision of this Act or any rule or order made or condition of license granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, export inter-State, or uses any psychotropic substance shall be punishable with rigorous imprisonment for a term which shall not be less than ten year but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**23. Punishment for illegal import into India, export from India or transshipment of narcotic drugs and psychotropic substances.**

Any person who contravenes any provision of this Act or any rule or order made or condition of license or permit granted or certificate or authorization issued thereunder, imports into India or exports from India or transships any narcotic drug or psychotropic substance shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but may extend to two lakh rupees.

**24. Punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12**

Whoever engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorization of the Central Government or otherwise than in accordance with the conditions (if any) of such authorization granted under section 12, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but may extend to two lakh rupees.

**25. Punishment for allowing premises, etc., to be used for commission of an offence**

Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**25A. Punishment for contravention of orders made under section 9A**

If any person contravenes an order made under section 9A, he shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees.

**26. Punishment for certain acts by licensee or his servants**

If the holder of any license, permit or authorization granted under this Act or any rule or order made thereunder or any person in his employ and acting on his behalf:

* omits, without any reasonable cause, to maintain accounts or to submit any return in accordance with the provisions of this Act, or any rule made thereunder;
* fails to produce without any reasonable cause such license, permit or authorization on demand of any officer authorized by the Central Government or State Government in this behalf;
* keeps any accounts or makes any statement which is false or which he knows or has reason to believe to be incorrect; or
* willfully and knowingly does any act in breach of any of the conditions of license, permit or authorization for which a penalty is not prescribed elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**27. Punishment for illegal possession in small quantity for personal consumption of any narcotic drug or psychotropic substance or consumption of such drug or substance.**

Any person who contravenes any provision of this Act, or any rule or order made or permit issued thereunder, possesses in a small quantity, any narcotic drug or psychotropic substance, which is proved to have been intended for his personal consumption and not for sale or distribution, or consumes any narcotic drug or psychotropic substance, shall, notwithstanding anything contained in this Chapter, be punishable:

* where the narcotic drug or psychotropic substance possessed or consumed is cocaine, morphine, diacetyl-morphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government, by notification in the Official Gazette, with imprisonment for a term which may extend to one year or with fine or with both; and
* where the narcotic drug or psychotropic substance possessed or consumed is other than those specified in or under the previous point, with imprisonment for a term which may extend to six months or with fine or with both.

For the purposes of this section "small quantity" means such quantity as may be specified by the Central Government by notification in the Official Gazette. If a person is found to be in possession of a small quantity of a narcotic drug or psychotropic substance, the [burden of proving](https://en.wikipedia.org/wiki/Legal_burden_of_proof) that it was intended for the personal consumption of such person and not for sale or distribution, shall lie on such person.

**27A. Punishment for financing illicit traffic and harboring offenders**

Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of clause (viiia) of section 2 or harbors any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

**28. Punishment for attempts to commit offences**

Whoever attempts to commit any offence punishable under this Chapter or to cause such offence to be committed and in such attempt does any act towards the commission of the offence shall be punishable with the punishment provided for the offence.

**29. Punishment for abetment and criminal conspiracy.**

Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning for this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which would constitute an offence if committed within India; or under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.

**30. Preparation.**

If any person makes preparation to do or omits to do anything which constitutes an offence punishable under any of the provisions of section 15 to section 25 (both inclusive) and from the circumstances of the case it may be reasonably inferred that he was determined to carry out his intention to commit the offence but had been prevented by circumstances independent of his will, he shall be punishable with rigorous imprisonment for a term which shall not be less than one-half of the minimum term (if any), but which may extend to one-half of the maximum term, of imprisonment with which he would have been punishable in the event of his having committed such offence, and also with fine which shall not be less than one-half of the minimum amount (if any), of fine with which he would have been punishable, but which may extend to one-half of the maximum amount of fine with which he would have ordinarily (that is to say in the absence of special reasons) been punishable, in the event aforesaid.

**31. Enhanced punishment for certain offences after previous conviction.**

If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 15 to section 25 (both inclusive) is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under:

* section 15 to section 19, section 20 (except for cultivation of cannabis) and section 21 to section 25 (both inclusive), he shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which shall not be less than fifteen years but which may extend to thirty years and shall also be liable to fine which shall not be less than one lakh fifty thousand rupees but which may extend to three lakh rupees.
* (b)section 20 (except for cultivation of cannabis), he shall be punished for the second and every subsequent offence for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees.

Where any person is convicted by a competent court of criminal jurisdiction outside India under any law corresponding to the provisions of section 15 to section 25 (both inclusive), section 28 and section 29, such person, in respect of such conviction, shall be dealt with for the purposes of point 1 as if he had been convicted by a court in India.

**31A. Death penalty for certain offences after previous conviction**

**32. Punishment for offence for which no punishment is provided.**

Any person who contravenes any provision of this Act or any rule or order made, or any condition of any license, permit or authorization issued thereunder for which no punishment is separately provided in this Chapter, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**32A. No suspension, remission or commutation in any sentence awarded under this Act**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted.

**33. Application of section 360 of the Code of Criminal Procedure, 1973 and of the Probation of Offenders Act, 1958.**

Nothing contained in section 360 of the Code of Criminal Procedure, 1973 or in the Probation of Offenders Act, 1958 shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age or that the offence for which such person is convicted is punishable under section 26 or section 27.

**34. Security for abstaining from commission of offence.**

Whenever any person is convicted of an offence punishable under any provision of Chapter IV and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of any offence under this Act, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from commission of any offence under Chapter IV during such period not exceeding three years as it think fit to fix. The bond shall be in such form as may be prescribed by the Central Government and the provisions of the Code of Criminal Procedure, 1973, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code. If the conviction is set aside on appeal or otherwise, the bond so executed shall become void. An order under this section may also be made by an appellate court or by the High Court or Sessions Judge when exercising the powers of revision.

**35. Presumption of culpable mental state.**

In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defense for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. In this section "culpable mental state" includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact. For the purpose of this section, a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.

**36. Constitution of Special Courts**

The Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification. A Special Court shall consist of a single Judge who shall be appointed by the Government with the concurrence of the Chief Justice of the High Court. In this section, "High Court" means the High Court of the State in which the Session Judge or the Additional Sessional Judge of a Special Court was working immediately before his appointment as such Judge. A person shall not be qualified for appointment as a Judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge.

**36A. Offences triable by Special Courts**

All offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government. When a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorize the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate, provided that where such Magistrate considers when such person is forwarded to him as aforesaid; or upon or at any time before the expiry of the period of detention authorized by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction.

The Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section. A Special Court may, upon a perusal of police report of the facts constituting an offence under this Act or upon a complaint made by an officer of the Central Government or a State Government authorized in the behalf, take cognizance of that offence without the accused being committed to it for trial. When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial. Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 36.

**36B. Appeal and revision**

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

**36C. Application of Code to proceedings before a Special Court.**

Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

**36D. Transitional provisions**

Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988, until a Special Court is constituted under section 36, shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973, be tried by a Court of Session, provided that offences punishable under sections 26, 27 and 32 may be tried summarily. Nothing in this section shall be construed to require the transfer to a Special Court of any proceedings in relation to an offence taken cognizance of by a Court of Session and the same shall be heard and disposed of by the Court of Session.

**37. Offences to be cognizable and non-bailable**

Every offence punishable under this Act shall be cognizable; and no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail. The limitations on granting of bail are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

**38. Offences by companies.**

If an offence under Chapter IV has been committed by 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 offence and shall be liable to be proceeded against and punished accordingly, provided that nothing contained in this section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Notwithstanding anything contained above, where any offence under Chapter IV has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director (in relation to a firm, means a partner in the firm), manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**39. Power of court to release certain offenders on probation.**

When any addict is found guilty of an offence punishable under section 27 and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognized by Government and on his entering into a bond in the form prescribed by the Central Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV. If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under this section, that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Central Government, with or without sureties, for abstaining from the commission of any offence under Chapter IV during such period not exceeding three years as the court may deem fit to specify or on his failure so to abstain, to appear before the court and receive sentence when called upon during such period.

40. Power of court to publish names, place of business, etc., of certain offenders. Where any person is convicted of any of the offences punishable under section 15 to section 25 (both inclusive), section 28, section 29 or section 30, it shall be competent for the court convicting the person to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person in such newspapers or in such manner as the court may direct. No publication under this section shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such appeal, having been preferred, has been disposed of. The expenses of any publication under this section shall be recoverable from the convicted person as if it were a fine imposed by the court.