

# **DRUG AND MAGIC REMEDIES ACT**

## • OBJECT

- 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.



# DEFINITIONS

- **1. Advertisement:**

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.



- **2. Magic Remedy:**

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.

## **2 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);



- 4. '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

# CLASSES OF PROHIBITED ADVERTISEMENTS


- **SECTION 3:**
- **1. Prohibition of Advertisement of Certain Drugs for Treatment of Certain Diseases and Disorders.**
- a) For 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 schedule, or in rules made under this Act:



- **2. 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 nature or character of the drug; or
- b) makes a false claim for the drug; or
- c) is otherwise false or misleading in any material particular are prohibited.


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- **3. 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.
  - **4. 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 of the nature referred to in 2,3 above.



## CLASSES OF EXEMPTED ADVERTISEMENT/PROVISION FOR SAVINGS

- The following classes of advertisement are not prohibited under this act:
  1. Any advertisement relating to the drugs printed or published by the Government or any other person with prior permission of the Government.
  2. Any advertisement relating to a drug which is sent confidentially in prescribed manner to Registered Medical Practitioner.
  3. Advertisement including any book or treatise ( a written or printed composition) dealing with any matter relating to the diseases.

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- Any sign board 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
  - 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 Advertisement) Amendment Act, 1963 (42 of 1963).
  - Provided that the Government may, for reasons to be recorded in writing withdraw the sanction after giving the person an opportunity of showing cause against such withdrawal.




- i) Advertisement relating to the drugs which comply with the required conditions as follows:


- A) Leaflets or literature along with packings of drug; or Advertisements of drugs in medicinal, pharmaceutical, scientific and technical journals.

- B) Therapeutic index or price list published by licensed manufacturer, importer, or distributor of drug; or Medical literature distributed by Medical representatives.

With the condition that:

the advertisement should contain only the information, required for the guidance of registered medical practitioner regarding:

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- a) therapeutic indications;
  - b) route of administration,
  - c) dosage and side effects of such drug or drugs ; and
  - d) the precaution to be taken in treatment with the drug
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- ii) The distribution of such literature should be given to registered medical practitioner,dispensaries,hospitals,medical and research institutions, chemists and druggists or pharmacies.



**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.**

## **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.