

The Gazette  of India

EXTRAORDINARY
PART II—Section 2
PUBLISHED BY AUTHORITY

No. 22] NEW DELHI, THURSDAY, APRIL 28, 1960/VAISAKA 8, 1882

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 28th April, 1960:—

BILL NO. X OF 1960

A bill further to amend the Drugs Act, 1940.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Drugs (Amendment) Act, 1960.

Short title
and com-
mencement.

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

23 of 1940.

2. In section 3 of the Drugs Act, 1940 (hereinafter referred to as the principal Act),—

Amendment
of section 3.

(i) in clause (b), in sub-clause (i), for the words “in the treatment”, the words “in the diagnosis, treatment” shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) ‘Government Analyst’ means a Government Analyst appointed by the Central Government or a State Government under section 20;”;

(iii) the existing clause (bb) shall be re-lettered as clause (d) and after clause (d) as so re-lettered, the following clause shall be inserted, namely:—

“(e) ‘Inspector’ means an Inspector appointed by the Central Government or a State Government under section 21;” and

(iv) the existing clauses (bbb), (c), (d) and (e) shall be re-lettered respectively as (f), (g), (h) and (i).

Amendment
of section
19.

3. In section 19 of the principal Act, in sub-section (2), in clause (aa), for the words, brackets and letter "in clause (d)", the words, brackets and letter "in clause (h)" shall be substituted.

Substitution
of new sec-
tions for sec-
tions 20 and
21.

Government
Analysts.

4. For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

"20. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts for such areas in the State and in respect of such drugs or class of drugs as may be specified in the notification.

(2) The Central Government may also, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Government Analysts in respect of such drugs or class of drugs as may be specified in the notification.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), neither the Central Government nor a State Government shall appoint as a Government Analyst any official not serving under it without the previous consent of the Government under which he is serving.

Inspectors.

21. (1) The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Inspectors.

(2) The powers which may be exercised by an Inspector and the duties which may be performed by him, the areas in which, the drugs or class of drugs in relation to which and the conditions, limitations or restrictions subject to which, such powers and duties may be exercised or performed shall be such as may be prescribed.

(3) No person who has any financial interest in the manufacture, import or sale of drugs shall be appointed to be an Inspector under this section.

(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf."

5. In section 22 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely:— Amendment of section 22.

“(cc) examine any record, register, document or any other material object found in any place mentioned in clause (c), 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 or the rules made thereunder;”.

6. In section 23 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:— Amendment of section 23.

“(6) Where an Inspector seizes any record, register, document or any other material object under clause (cc) of sub-section (1) of section 22, he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof.”.

7. For section 27 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 27.

“27. Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale or distributes any drug,— Penalty for manufacture, sale, etc., of drugs in contravention of this Chapter

(a) deemed to be misbranded under clause (a), clause (b), clause (c), clause (d), clause (f) or clause (g) of section 17 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year;

(b) other than a drug referred to in clause (a) in contravention of any of the provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment which may extend to three years, or with fine, or with both.”.

8. In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 30.

“(1) Whoever, having been convicted of an offence—

(a) under clause (a) of section 27 is again convicted of an offence under that clause, shall be punishable with imprisonment for a term which shall not be less than two

years but which may extend to five years and shall also be liable to fine:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of less than two years;

(b) under clause (b) of section 27, is again convicted of an offence under that clause shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.”.

Amendment
of section
31.

9. Section 31 of the principal Act shall be re-numbered as sub-section (1) of that section, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Without prejudice to the provisions contained in sub-section (1), any drug in respect of which the Court is satisfied, on the application of an Inspector or otherwise and after such inquiry as may be necessary, that the drug is not of standard quality or is a misbranded drug, shall be liable to confiscation.”.

Amendment
of section
33.

10. In section 33 of the principal Act,—

(i) in sub-section (2), for clause (n), the following clause shall be substituted, namely:—

“(n) prescribe the powers and duties of Inspectors and the areas in which, the drugs or class of drugs in relation to which and the conditions, limitations or restrictions subject to which, such powers and duties may be exercised or performed;”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.”.

11. In Chapter V of the principal Act, before section 34, the following section shall be inserted, namely:—

Insertion of
new section
33A.

“33A. The Central Government may give such directions to any State Government as may appear to the Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule or order made thereunder.”.

Power to
give direc-
tions.

STATEMENT OF OBJECTS AND REASONS

The Pharmaceutical Enquiry Committee appointed by the Government of India to make a comprehensive survey of the pharmaceutical industry, trade and profession in the country unanimously recommended that the Drugs Standard Control which was exercised by State Governments should be centralised for a better enforcement of the Drugs Act, 1940. On the basis of this recommendation of the Committee it is proposed to amend the Drugs Act, 1940 so as to empower the Central Government to control the manufacture of drugs, to appoint Inspectors for inspecting manufacturing premises and taking samples of drugs, to appoint Government Analysts to whom samples drawn by such Inspectors could be sent for analysis and to issue directions to State Governments for carrying into execution any of the provisions of the Act. It is further proposed to provide a minimum punishment of one year's imprisonment and fine for the manufacture, sale, etc., of certain misbranded drugs and a minimum punishment of two years' imprisonment with fine for subsequent offences. Provision is also being made for the confiscation of sub-standard and misbranded drugs under orders of the Court after such enquiry as may be necessary.

D. P. KARMARKAR.

NEW DELHI;

The 22nd April, 1960.

FINANCIAL MEMORANDUM

It is proposed to amend section 21 of the Drugs Act, 1940 to vest the Central Government with power to appoint Inspectors who will inspect premises where drugs are manufactured. They will conduct occasionally test check of such premises and take samples of drugs to ensure that the provisions and requirements of the Drugs Act and the Rules thereunder are carried out in the States effectively. It is also proposed to amend section 20 of the Act empowering the Central Government to appoint Government Analysts to whom samples may be sent by the Central Inspectors. The working of the proposed amendments will involve the Government of India an additional expenditure of about Rs. 3·5 lakhs per year for meeting the salaries, etc., of Inspectors and other staff and the strengthening of the Central Drugs Control Organisation.

S. N. MUKERJEE,
Secretary.
