



Ayana Legal

# THE BUZZ

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Monthly Newsletter By Team Ayana Legal

## Offences and Penalties

Chapter IV of the Act deals with offenses and penalties. Punishments are prescribed separately for particular drugs:

- . Section 15 - poppy straw
- . Section 16 - coca plant and coca leaves
- . Section 17 - prepared opium
- . Section 18 - opium poppy and opium
- . Section 20 - cannabis plant and cannabis
- . Section 21 - manufactured drugs and preparations
- . Section 22 - psychotropic substances

The Act provides for enhanced punishment for offences after previous conviction and even death penalty for certain offences after previous conviction.

## “A GLANCE AT THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985”



The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) is an Act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances. This issue of the Buzz gives an insight into the important provisions of the Act.

### Prohibition of Certain Operations

As per Section 8 of the Act no person shall -

- “(a) cultivate any coca plant or gather any portion of coca plant; or
- (b) cultivate the opium, poppy or any cannabis plant; or
- (c) produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-state, export inter-state, import into India, export from India or transship any narcotic drug or psychotropic substance, except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act...”

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Punishment for offences for which no punishment is provided under the Act will be imprisonment which may extend to 6 months or with fine, or with both.

## Right to Bail and NDPS

To learn more about the right to bail under the Act please read our November 2021 issue of the Buzz

[Right to Bail - The Buzz, Nov. 2021](#)

## Thank You

In these unpredictable times, we hope that you are taking care of yourself. Team Ayana Legal thanks you for the trust. Till we are back with our next edition, stay safe and keep smiling.

## Disclaimer

This newsletter is solely for the purpose of providing information and the content provided is not and should not be construed as legal advice.

## Punishment for Consumption of any Narcotic Drug or Psychotropic Substance

Whoever, consumes any narcotic drug or psychotropic substance shall be punishable,— (a) where the narcotic drug or psychotropic substance 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 rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and

(b) where the narcotic drug or psychotropic substance consumed is other than those specified above with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

## Presumption of Culpable Mental State

In any prosecution for an offence under this Act which requires a culpable mental state (intention, motive, knowledge of a fact and belief in, or reason to believe, a fact) of the accused, the court shall presume the existence of such mental state and it shall be 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.

## 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 Court as may be necessary

## National Fund for Control of Drug Abuse

The Central Government may set up a National Fund to meet the expenditure incurred in connection with the measures taken for - (a) combating illicit traffic in narcotic drugs, psychotropic substances or controlled substances; (b) controlling the abuse of narcotic drugs and psychotropic substances; (c) identifying, treating, rehabilitating addicts; (d) preventing drug abuse; (e) educating public against drug abuse; (f) supplying drugs to addicts where such supply is a medical necessity.