

**DRUGS AND MAGIC REMEDY (OBJECTIONABLE
ADVERTISEMENTS) ACT, 1954 AND RULES, 1955**

Introduction

- Advertisement is a media through which the manufacturer introduces his product in the market.
- In today's era, advertisement is essential for the sale of any item including drugs.
- There are various media of advertisement such as audio-visual media like radio, television, newspaper, journal, magazines, etc.
- The fundamental difference between advertisement of consumer goods and that of drugs is that the drugs are not directly advertised to consumers but are addressed to doctors, pharmacists and nurses, so that the potential hazards of self medication can be avoided.
- Hence, the control of the advertisements relating to drugs and medicines is important.
- Most of the advertisements give misleading information about the drug and make false claims for the magic remedies.
- Hence to prevent the misleading of the public, The Drugs and Magic Remedies (Objectionable Advertisements) Act was enacted on 30th April, 1954 and amended in 1963.

Objectives

This is an Act to:

a)control the advertisements in certain cases.

b)prohibit the advertisement in certain purposes of magic remedy alleged to possess the miraculous power for diagnosis or cure of disease, and

c)provide for the matters connected therewith.

Definitions

1. Advertisement

- It includes any notice, circular, label, wrapper or any other document or any other announcement made orally or by transmitting light, sound or smoke.

2. Drug

It means:

- a) A medicine for internal or external use; or
- b) A substance intended for diagnosis, treatment, mitigation, prevention or cure of diseases in human beings or animals; or
- c) Any article other than food intended to affect the structure or any organic function of the body of the human beings or animals; or
- d) Any article intended to be used as a component of drug as referred in (a), (b) or (c) above.

3.Magic remedy

- It includes 'talismans', 'mantras', 'kavachas' or any other charm of any kind which is alleged to possess the miraculous power for or in the diagnosis, treatment, mitigation, prevention or cure of disease in human beings or animals or intended to affect or alter the structure or any organic function of the body of the human beings or animals.

4.Registered Medical Practitioner

- R. M. P. means a person:

- a) holding qualification granted by an authority specified or notified under sec. 3 of the Indian Medical Degrees Act, 1916 or as may be specified in the Schedules to the Indian Medical Council Act, 1956; or*
- b) who is entitled to be registered as a Medical Practitioner under any law in any State to which this Act extends relating to the registration of person as a Medical Practitioner.*

5. Taking part in publication of advertisement

It includes:

- a) printing of the advertisement and
- b) publication of the advertisement outside India

6. Venereal disease

It includes syphilis, gonorrhoea, soft chancre, etc.

Classes of Prohibited Advertisements

Following classes of advertisements of drugs are prohibited:

1.No person shall take part in the publication of the advertisements which may lead to their use in the treatment of the following:

- a) for the procurement of miscarriage or prevention of conception in women.
- b) for the correction of menstrual disorders in women.
- c) for the improvement or maintenance of the capacity of the human being for the sexual pleasure.
- d) for diagnosis, treatment, prevention, mitigation or cure of diseases specified in the Schedules to the Act.

2.Advertisements of magic remedy which may claim to be efficacious for the conditions recommended as referred in (a), (b), (c) or (d) above

3.Advertisements of drugs which may:

- a) directly or indirectly gives a false impression regarding true characters of drugs.
- b) make false claim for the drugs.

Classes of Exempted Advertisements

Following classes of advertisements of drugs are exempted:

1. Any advertisement relating to section 3 of the Schedule made by Registered Medical Practitioner at his own premises.
2. Any book or treatise written with the scientific or social standpoint.
3. Any advertisement made by the Government.
4. Any advertisement made by any person with the prior sanction of State Government but only up to specified period.
5. Any advertisement sent to Registered Medical Practitioner in the confidential manner.

Offences and Penalties

1. Any person who contravenes any of the provisions of this Act shall be punishable with an imprisonment or with fine or with both. The penalty for first conviction is imprisonment for six months or fine or both. For subsequent conviction, the penalty is imprisonment for one year or fine or both.

2. In case of contravention of the provisions of this Act by a company, every person who at the time of commission of the offence was in charge and responsible for the commission of the offence, shall be punishable.

Provided that such person will not be held to be guilty only if it is satisfied that the offence has been committed without his due knowledge and he has tried to avoid such offence.

List of Diseases under the Schedule of this Act

- The diseases, disorders or conditions under the Schedule for which uncontrolled and misleading advertisements are prohibited are:
- Appendicitis, Blindness, Blood Poisoning, Blood Pressure, Cancer, Cataract, Deafness, Diabetes, Diseases and disorders of Brain, Disorders of menstrual flow, Epilepsy, Female disorders, Gangrene, Heart diseases, Leprosy, Obesity, Paralysis, Plague, Typhoid fever, Ulcers of GIT, Venereal diseases, etc.

Import or Export of Banned Advertisement

The involvement of a person in import or export activities pertaining to documents of objectionable advertisements is punishable under this Act.