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Submission on the Amendments proposed to the NDPS Act, 1985

1 message

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7 July 2026 at 10:38

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BULK DRUG MANUFACTURERS ASSOCIATION OF INDIA

C-25, Industrial Estate, Sanath Nagar, Hyderabad 500 018

www.bdmai.org; info@bdmai.org; ed@bdmai.org**Smt. Neetu Kumari Prasad, IAS**

Additional Secretary (Revenue)

Department of Revenue

Ministry of Finance, Kartavya Bhawan

New Delhi

Dear Madam,

Sub: Submission on the Amendments proposed to the NDPS Act, 1985

Greetings from Bulk Drug Manufacturers Association of India!

With reference to the meeting held on 11.05.2026 regarding the proposed amendments to the NDPS Act, 1985, and the subsequent discussions during the Manthan Shivir held on 10.06.2026, we wish to submit herewith industry comments on the proposed amendments to the NDPS Act, 1985.

We request you to kindly consider the enclosed submission during the process of finalizing the proposed amendments.

With kind regards

M Roja Rani

Executive Director

Encl: Annexure I-NDPS Act Amendments (Industry comments)

Copy to:

Shri Shankar Lal Kumawat, Joint Secretary (Revenue), IAS, Department of Revenue**Shri Vinod Kumar**, IRS, Director, Narcotics Control Bureau (NCB)



NDPS Act Amendments (Industry comments)_6 July 2026.pdf

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Annexure-I

Comparison Chart : Existing Vs. Proposed Provisions for Amendment as on 28th April, 2026

Sl. No.	Existing Provision	Proposed Provision	Collated comments
01.	Preamble 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 [, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances] and for matters connected therewith.	Preamble 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 [, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances,] <i>to provide for de-addiction, treatment and rehabilitation of addicts & the persons using drugs</i> and for matters connected therewith	
02.	Section 2 (ii) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).	Section 2 (ii) "Board" means the <i>Central Board of Indirect Taxes and Customs or the erstwhile</i> Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).	
03.	Section 2 Definitions (xxix) words and expressions used herein and not defined but defined in the Code of Criminal Procedure, 1973 (2 of 1974) have the meanings respectively assigned to them in that Code.	Section 2 Definitions (xxix) words and expressions used herein and not defined but defined in the <i>Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023)</i> have the meanings respectively assigned to them in that <i>Sanhita</i> .	

	New insertion to Section 2	Section 2 (ixa) “licit entity” means – (a) any person engaged in the cultivation, production, manufacture, possession, sale, purchase, transport, warehouse, use, consumption, import inter-State, export inter-State, import into India, export out of India or transshipment of any narcotic drug or psychotropic substance for medical or scientific purposes and in the manner and to the extent provided by the provisions of the Act or rules or orders made thereunder or any other act for the time being in force and in a case where any such provision imposes any requirement by way of license, permit, authorization or recognition, in accordance with the terms and conditions of such license, permit, authorization or recognition; (b) any person engaged in the cultivation of any cannabis plant for industrial purposes or horticultural purposes under a general or special order issued under section 14 of the Act; (c) any person engaged in the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance in accordance with an order issued under section 9A of the Act and includes any person involved in the administration of treatment to a patient or addict or others where the supply of narcotic drugs,	<u>Industry comments:</u> A definition for a “<i>licit entity</i>” involves specifying clear legal definitions and criteria that differentiate licit (lawful) entities and actions—such as the legitimate manufacture, distribution, prescription, dispensing and use of narcotic drugs, psychotropic and controlled substances for medical and scientific purposes—from illicit (unlawful) entities and acts, which are not sanctioned under the law. Such legal distinction will ensure that individuals and organizations operating in compliance with statutory requirements are protected from unwarranted prosecution, while unlawful activities remain subject to enforcement and penalties. The enactment through the prescribed legislative process ensures full legal validity and enforceability. This approach aligns with the intent of the legislature and 2014 amendment to Section 4 expanding the object of the Act to include medical and scientific use, upholds statutory compliance, and defines the role of the industry, trade, medical practitioners, and public health objectives. In the past, amendments have been proposed to clearly distinguish between “<i>licit</i>” and “<i>illicit</i>” entities and activities by the industry, and supported by Ministry of Social Justice and Empowerment (MoSJE), All India Institute of Medical Sciences (AIIMS), and Ministry of Health and Family Welfare (MoHFW).
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		psychotropic substances <u>and controlled substances</u> is a medical necessity.	To give legal effect, it is proposed that the relevant provisions be formally incorporated into the governing legislation.
	New insertion to Section 2	Section 2(viiiiaa) “diversion” means- “the intentional dealing and transfer of any narcotic drug, psychotropic substance or controlled substance by a licit entity or any person in his employ or acting on his behalf to another person for illicit traffic”	<u>Industry comments:</u> Amendments to distinguish between “ <i>licit</i> ” and “ <i>illicit</i> ” entities and define the instances and acts of “ <i>diversion</i> ” as suggested by the Industry and supported by MoSJE, AIIMS, MoHFW. This also helps to determine the applicable punishment – either penalties or criminal proceedings. For example, the inclusion of this definition will ensure that there is clarity as to when the civil penalties under Section 26 will apply i.e., they will apply when there is no “ <i>diversion</i> ” as per this definition.
04.	Section 3. Power to add to or omit from the list of psychotropic substances. The Central Government may, if satisfied that it is necessary or expedient so to do on the basis of-- (a) the information and evidence which has become available to it with respect to the nature and effects of, and the abuse or the scope for abuse of, any substance (natural or synthetic) or natural material or any salt or preparation of such substance or material; and	Section 3. Power to add to or omit from the list of psychotropic substances. The Central Government may, if satisfied that it is necessary or expedient so to do on the basis of-- - (a) the information and evidence which has become available to it with respect to the nature and effects of, and the abuse or the scope for abuse of, any substance (natural or synthetic) or a class of substance (natural or synthetic) or natural material or any salt or preparation of such substance or material; and (b) the modifications or provisions (if any) which	<u>Industry comments:</u> Please see our proposal to delete the language struck out in the adjacent column to the left. Justification for proposed deletion: The deleted language is broadly worded without clear clarification as to the scope of the language “<i>or a class ...</i>”. The power to add to / or omit from the list of psychotropic substances is proposed to be expanded to include “<i>a class of substance (natural or synthetic)</i>” would result in entries such as ‘Amines’, ‘Barbiturates’ etc. being included in the

	(b) the modifications or provisions (if any) which have been made to, or in, any International Convention with respect to such substance, natural material or salt or preparation of such substance or material, by notification in the Official Gazette, add to, or, as the case may be, omit from, the list of psychotropic substances specified in the Schedule such substance or natural material or salt or preparation of such substance or material.	have been made to, or in, any International Convention with respect to such substance, natural material or salt or preparation of such substance or material, by notification in the Official Gazette, add to, or, as the case may be, omit from, the list of psychotropic substances specified in the Schedule such substance or natural material or salt or preparation of such substance or material.	definition of psychotropic substances without naming the specific ‘Amines’ or ‘Barbiturates’. This could result in an unduly broad and unnecessary scope for prosecution by enforcement authorities against substances that are neither addictive nor habit-forming nor capable of serving as precursor chemicals. • May lead to excessive enforcement actions that are not based on legitimate grounds. • Additions to the red, yellow, green lists of the Convention are always based on specific substance recommendations and not on the basis of a “<i>class</i>” of substances.
05.	Section 5. Officers of Central Government. — (1) Without prejudice to the provisions of sub-section (3) of section 4, the Central Government shall appoint a Narcotics Commissioner and may also appoint such other officers with such designations as it thinks fit for the purposes of this Act. (2) The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy and production of opium and shall also exercise and perform such	Section 5. Officers of Central Government. — (1) Without prejudice to the provisions of sub-section (3) of section 4, the Central Government shall appoint a Narcotics Commissioner and may also appoint such other officers with such designations as it thinks fit for the purposes of this Act. (2) The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy and production of opium and poppy straw and shall also exercise and perform such other powers and functions as may be entrusted to him by the Central Government. (3) The officers appointed under sub-section (1)	

	other powers and functions as may be entrusted to him by the Central Government. (3) The officers appointed under subsection (1) shall be subject to the general control and direction of the Central Government, or, if so directed by that Government, also of the Board or any other authority or officer.	shall be subject to the general control and direction of the Central Government, or, if so directed by that Government, also of the Board or any other authority or officer.	
06.	Section 7A. National Fund for Control of Drug Abuse.— (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto-- (a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide; (b) the sale proceeds of any property forfeited under Chapter VA; (c) any grants that may be made by any person or institution; (d) any income from investment of the amounts credited to the Fund under the aforesaid provisions.	Section 7A. National Fund for Control of Drug Abuse. – (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto-- (a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide; (b) the sale proceeds of any property forfeited under Chapter VA; (c) any grants that may be made by any person or institution; (d) any income from investment of the amounts credited to the Fund under the aforesaid provisions. [(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for--	

	(2) The Fund shall be applied by the Central Government 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. (3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette. (4) The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.	(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. (g) disengaging and weaning away the farmers from illicit cultivation of opium poppy; (h) any other measures the Central Government may, by notification, specify. (3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette. (4) The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.	
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	(5) The Governing Body shall have the power to regulate its own procedure.	(5) The Governing Body shall have the power to regulate its own procedure.	
07.	Section 9. Power of Central Government to permit, control and regulate (2) In particular and without prejudice to the generality of the foregoing power, such rules may— (a) empower the Central Government to fix from time to time the limits within which licences may be given for the cultivation of the opium poppy; (b) require that all opium, the produce of land cultivated with the opium poppy, shall be delivered by the cultivators to the officers authorised in this behalf by the Central Government; (c) prescribe the forms and conditions of licences for cultivation of the opium poppy and for production and manufacture of opium; the fees that may be charged therefor; the authorities by which such licences may be granted, withheld, refused or cancelled and the authorities before which appeals against the orders of	Section 9. Power of Central Government to permit, control and regulate. (2) In particular and without prejudice to the generality of the foregoing power, such rules may (a) empower the Central Government to fix from time to time the limits within which licences may be given for the cultivation of the opium poppy; (b) require that all opium, the produce of land cultivated with the opium poppy, shall be delivered by the cultivators to the officers authorised in this behalf by the Central Government; (c) prescribe the forms and conditions of licenses for cultivation of the opium poppy and production and manufacture of opium and poppy straw; the fees that may be charged therefor; the authorities by which such licenses may be granted, withheld, refused or cancelled and the authorities before which appeals against the orders of withholding, refusal or cancellation of licenses shall lie; (d) prescribe that opium shall be weighed, examined and classified according to its quality and	

withholding, refusal or cancellation of licences shall lie; (d) prescribe that opium shall be weighed, examined and classified according to its quality and consistence by the officers authorised in this behalf by the Central Government in the presence of the cultivator at the time of delivery by the cultivator; (e) empower the Central Government to fix from time to time the price to be paid to the cultivators for the opium delivered; (f) provide for the weighment, examination and classification, according to the quality and consistence, of the opium received at the factory and the deductions from or additions (if any) to the standard price to be made in accordance with the result of such examination; and the authorities by which the decisions with regard to the weighment, examination, classification, deductions or additions shall be made and the authorities before which appeals against such decisions shall lie; (g) require that opium delivered by a cultivator, if found as a result of examination in the Central Government factory to be adulterated, may be	consistence by the officers authorized in this behalf by the Central Government in the presence of the cultivator at the time of delivery by the cultivator; (e) empower the Central Government to fix from time to time the price to be paid to the cultivators for the opium and poppy straw delivered; (f) provide for the weighment, examination and classification, according to the quality and consistence, of the opium received at the factory and the deductions from or additions (if any) to the standard price to be made in accordance with the result of such examination; and the authorities by which the decisions with regard to the weighment, examination, classification, deductions or additions shall be made and the authorities before which appeals against such decisions shall lie; (g) require that opium delivered by a cultivator, if found as a result of examination in the Central Government factory to be adulterated, may be confiscated by the officers authorised in this behalf; (h) prescribe the forms and conditions of licences for the manufacture of manufactured drugs, the authorities by which such licences may be granted and the fees that may be charged therefor; [(ha) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State,	
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confiscated by the officers authorised in this behalf; (h) prescribe the forms and conditions of licences for the manufacture of manufactured drugs, the authorities by which such licences may be granted and the fees that may be charged therefor; [(ha) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of essential narcotic drugs, the authorities by which such licence or permit may be granted and the fees that may be charged therefor;] (i) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances, the authorities by which such licences or permits may be granted and the fees that may be charged therefor; (j) prescribe the ports and other places at which any kind of narcotic drugs or psychotropic substances may be imported into India or exported from India or transhipped; the forms and conditions of	sale, purchase, consumption or use of essential narcotic drugs, the authorities by which such licence or permit may be granted and the fees that may be charged therefor;] (i) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances, the authorities by which such licences or permits may be granted and the fees that may be charged therefor; (j) prescribe the ports and other places at which any kind of narcotic drugs or psychotropic substances may be imported into India or exported from India or transhipped; the forms and conditions of certificates, authorisations or permits, as the case may be, for such import, export or transshipment; the authorities by which such certificates, authorisations or permits may be granted and the fees that may be charged therefor.	
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	certificates, authorisations or permits, as the case may be, for such import, export or transshipment; the authorities by which such certificates, authorisations or permits may be granted and the fees that may be charged therefor.		
08.	Section 9A. Power to control and regulate controlled substances. (1) If the Central Government is of the opinion that, having regard to the use of any controlled substance in the production or manufacture of any narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein. (2) Without prejudice to the generality of the power conferred by sub-section (1), an order made thereunder may provide for regulating by licences, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance.]	Section 9A. Power to control and regulate controlled substances. (1) If the Central Government is of the opinion that, having regard to the use of any controlled substance or a class of controlled substances (natural or synthetic) in the production or manufacture of any narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein. (2) Without prejudice to the generality of the power conferred by sub-section (1), an order made thereunder may provide for regulating by licenses, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance and the fees that may be charged for such license, permit, etc.	<u>Industry comments:</u> Please see our proposal to delete the language struck out in the adjacent column to the left. Justifications for proposed deletion: - The deleted language is broadly worded without clear clarification as to the scope of the language “<i>or a class ...</i>”. The power to add to the list of Controlled Substance is proposed to be expanded to add “<i>a class of substance (natural or synthetic)</i>” would result in entries such as ‘Fentanyl Analogues’, ‘Piperidone derivatives’ ‘Amines’ ‘Anhydrides’ etc. being included in the definition of Controlled Substances without naming the specific ‘Fentanyl Analogues’, ‘Piperidone derivatives’ ‘Amines’ and ‘Anhydrides’. This could result in an unduly broad and unnecessary scope for enforcement authorities to prosecute substances that are neither addictive nor habit-forming nor capable of serving as precursor chemicals. - May lead to excessive enforcement actions that are not based on legitimate grounds. - Additions to the red, yellow, green lists of the Convention are always based on specific

			substance recommendations and not on the basis of a “ <i>class</i> ” of substances.
09.	Section 15. Punishment for contravention in relation to poppy straw— Whoever, in contravention of any provisions of this Act or any rule or order made or condition of a licence 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,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;	Section 15. Punishment for contravention in relation to poppy straw – Whoever, in contravention of any provisions 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, -- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; c) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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:	

	(c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.	Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.	
10.	Section 17. Punishment for contravention in relation to prepared opium. – Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses prepared opium shall be punishable,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or	Section 17. Punishment for contravention in relation to prepared opium. – Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses prepared opium shall be punishable,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a	

	with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	term <i>which shall not be less than one year but</i> which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	
11.	Section 18. Punishment for contravention in relation to opium poppy and opium.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses	Section 18. Punishment for contravention in relation to opium poppy and opium.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence 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,--	

	opium shall be punishable,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves commercial quantity, 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 which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees; (c) in any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees.]	(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves commercial quantity, 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 which may extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees; (c) in any other case, with rigorous imprisonment which <i>shall not be less than one year but may extend to ten years</i> and with fine which may extend to one lakh rupees.]	
12.	Section 20. Punishment for contravention in relation to cannabis plant and cannabis. Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted	Section 20. Punishment for contravention in relation to cannabis plant and cannabis. Whoever, in contravention of any provision of this Act or any rule or order made or condition of license granted thereunder, - (a) cultivates any cannabis plant; or	

thereunder,- (a) cultivates any cannabis plant; or (b) produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable,-- ¹[(i) where such contravention relates to clause (a) 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; and (ii) where such contravention relates to sub-clause (b),-- (A) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;	(b) produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable, -- (i) where such contravention relates to clause (a) 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; and (ii) where such contravention relates to sub-clause (b), -- (A) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both; (B) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to one lakh rupees; (C) where the contravention involves commercial quantity, 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:	
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	(C) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	
13.	Section 21. Punishment for contravention in relation to manufactured drugs and preparations.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence 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,— (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or with both;	Section 21. Punishment for contravention in relation to manufactured drugs and preparations.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence 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,— (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which shall not be less than one year but	<u>Industry comments:</u> For a manufactured drug which is a pharma preparation, the punishment should be linked to the actual quantity of the active ingredient contained in the overall seized quantity. In the case of manufactured drugs that are pharma preparations, the quantity of the active ingredient is clearly specified in the labelling and packaging. As such, the punishment should be based only on the quantity of the active ingredient specified on the labelling and packaging, and not on the overall seized quantity. Please see the new “<i>Explanation</i>” proposed to Section 21 reflecting this position.

	(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.	which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees. Explanation: For the purpose of this clause, notwithstanding anything contained in the Act or any notification issued thereunder, where the contravention involves a manufactured drug which is a pharmaceutical preparation included in any of the schedules to the Drugs and Cosmetic Rules, 1945, the quantity of such drug shall be determined from the packaging and labelling on preparation or as established in therapeutic practice.	
14.	Section 22. Punishment for contravention in relation to psychotropic substances.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-	Section 22. Punishment for contravention in relation to psychotropic substances.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable, --	<u>Industry comments:</u> For a psychotropic substance which is a pharma preparation, the punishment should be linked to the actual quantity of the active ingredient contained in the overall seized quantity. In the case of psychotropic substances that are pharma preparations, the quantity of the active ingredient is clearly specified in the labelling and packaging. As such, the punishment should be based only on

State, exports inter-State or uses any psychotropic substance shall be punishable,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term <i>which shall not be less than one year but which may extend to ten years</i>, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees. <i>Explanation: For the purpose of this clause, notwithstanding anything contained in the Act or any notification issued thereunder, where the contravention involves a psychotropic substance which is a pharmaceutical preparation included in any of the schedules to the Drugs and Cosmetic Rules, 1945, the quantity of such drug shall be determined from the packaging and labelling on</i>	<i>the quantity of the active ingredient specified on the labelling and packaging, and not on the overall seized quantity. Please see the new “Explanation” proposed to Section 22(b) reflecting this position.</i>
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		preparation or as established in therapeutic practice.	
15.	Section 23. Punishment for illegal import into India, export from India or transshipment of narcotic drugs and psychotropic substances.— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence 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,-- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which	Section 23. Punishment for illegal import into India, export from India or transshipment of narcotic drugs and psychotropic substances. – Whoever, in contravention of 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, -- (a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to ²[one year], or with fine which may extend to ten thousand rupees, or with both; (b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to one lakh rupees; (c) where the contravention involves commercial quantity, 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	

	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: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.]	extend to two lakh rupees: Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.	
16.	Section 26. Punishment for certain acts by licensee or his servants. — If the holder of any licence, permit or authorisation granted under this Act or any rule or order made thereunder or any person in his employ and acting on his behalf— (a) 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; (b) fails to produce without any reasonable cause such licence, permit or authorisation on demand of any officer authorised by the Central Government or State Government in this behalf; (c) keeps any accounts or makes any statement which is false or which he knows or has reason to believe to be incorrect; or	Section 26. Penalty for certain acts by licensee or his servants. — If the holder of any license, permit, or authorization or registration granted under this Act or any rule or order made thereunder or under any other act for the time being in force or any person in his employ and acting on his behalf— (a) omits, without any reasonable cause, to maintain accounts in accordance with the provisions of this Act, or any rule made thereunder or fails to maintain a true and fair view of such accounts; (b) omits to submit or submits with delay, without any reasonable cause, any return in accordance with the provisions of this Act, or any rule made thereunder or fails to ensure that such return presents a true and fair view; (c) fails to produce, without any reasonable cause, such license, permit or authorization or registration on demand of any officer authorised by the Central Government or State Government in this behalf; or (d) wilfully and knowingly, commits an act or omission in breach of any of the conditions of license, permit or authorisation, for which a penalty	<u>Industry comments:</u> - The provision to pay a penalty should also be available to a licit entity with a registration under any other act for the time being in force, even if that entity is not a licensee under the NDPS Act due to an inadvertent mistake. - The move to expand the scope of Section 26 is welcome. Removal of imprisonment term is also appreciated. However, the penalty amount for first omission or commission of Rs. One Lakh and of Rs. 5 Lakh for every next instance of omission or commission is too high. It is possible that companies could make inadvertent lapses in maintenance of paperwork, which should be penalised reasonably. Therefore, we propose INR 5,000 for the first commission / omission, and INR 10,000 for every next commission / omission.

	(d) wilfully and knowingly does any act in breach of any of the conditions of licence, permit or authorisation 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.	is not prescribed elsewhere in this Act and such omission or commission does not involve diversion of narcotic drugs, psychotropic substances or controlled substances, i.e., transfer of such goods from licit to illicit channels, such holder of the license, permit, or authorization, or registration or the person in his employ and acting on his behalf shall be liable for penalty of up to five thousand one lakh rupees for each instance of first omission or commission and up to of ten thousand rupees five lakh rupees for each instance of subsequent omission or commission, by such officers or authorities as the Central State Government may, by notification in the Official Gazette, specify in this behalf.	
17.	Section 27 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;	Section 27. Consumption of narcotic drugs or psychotropic substances. (1) No person shall be arrested, punished or liable to criminal proceedings solely for the consumption of any narcotic drug or psychotropic substance, and such consumption shall not constitute an offence under this Act. (2) Notwithstanding anything contained in Chapter IV of this Act, possession of any narcotic drug or psychotropic substance, not exceeding small quantity, shall not constitute an offence under this Act, except where there is material indicating that such possession is for illicit traffic. Provided, notwithstanding anything contained in section 54 or 35(1) of this Act, the burden of proving that such possession was for the purpose of illicit traffic shall lie upon the prosecution.	

	or with both; and (b) where the narcotic drug or psychotropic substance consumed is other than those specified in or under clause (a), with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.]	(3) Every person shall have the right to seek and receive timely and adequate access to emergency medical care, de-addiction and detoxification treatment, harm-reduction services, and counselling in relation to the consumption of narcotic drugs or psychotropic substances, from any hospital or institution established or recognised by the Central Government or State Government . (4) No person shall be denied emergency medical care or treatment for want of fee or other charges, and no proceeding, action or requirement under this Act shall delay, impede or be made a precondition to access to such emergency medical care; and such care shall not be conditional upon arrest or registration of any offence under this Act. (5) Where any person voluntarily approaches, or is referred to any treatment centre, de-addiction centre, counselling or rehabilitation facility recognised under this Act, for assistance relating to the consumption of any narcotic drug or psychotropic substance, such centre or facility shall, with the consent of such person and without undue delay, commence appropriate treatment or counselling, as may be required. (6) Where a person is found consuming any narcotic drug or psychotropic substance in a public place, such person shall be liable to a civil penalty, not exceeding two thousand rupees, or community service, or both, as may be imposed by an adjudicating authority notified by the State Government, and in accordance with rules made under this Act.	
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		Provided that the adjudication authority shall inform such person of the availability of voluntary counselling, de-addiction and rehabilitation services under this Act, and such person may seek referral to a centre or facility under sub-section (5), in which case the adjudicating authority shall facilitate such referral, and may waive or mitigate the civil penalty or community service imposed under this sub-section.”	
18.	Section 29. Punishment for abetment and criminal conspiracy. — (1) 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 (45 of 1860), be punishable with the punishment provided for the offence. (2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without	Section 29. Punishment for abetment and criminal conspiracy. — (1) 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 56 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023), be punishable with the punishment provided for the offence. (2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of 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— (a) would constitute an offence if committed within India; or (b) under the laws of such place, is an offence relating to narcotic drugs	

	and beyond India which— (a) would constitute an offence if committed within India; or (b) 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.	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.	
19.	Insertion of new Section	Draft of Section 29A, NDPS act: Section 29A. Punishment for continuing unlawful activity and organised crime.-- (1) Any continuing unlawful activity or illicit traffic related to narcotic drugs, psychotropic substances or controlled substances by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.	

		Explanation— For the purposes of this sub-section,— (i) “organised crime syndicate” means a group of two or more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity; (ii) “continuing unlawful activity” means a cognizable offence under the present act undertaken by any person, either singly or jointly, as a member of an organised crime syndicate on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court under the present act within the preceding period of ten years and that Court has taken cognizance of such offence”. (2) Whoever commits organised crime shall be punished with imprisonment for a term which shall not be less than ten years and which may extend to twenty years and shall also be liable to fine which	
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		shall not be less than one lakh rupees, but which may extend to two lakh rupees. (3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall be punished with imprisonment for a term which shall not be less than five 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. (4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five 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.	
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		(5) Whoever, intentionally, harbours or conceals any person who has committed the offence of an organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to twenty years and shall also be liable to fine which shall not be less than 1 lakh rupees but which may extend to two lakh rupees. Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender. (6) Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to twenty years and shall also be liable	
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		to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.	
20.	Section 32. Punishment for offence for which no punishment is provided. Whoever contravenes any provision of this Act or any rule or order made, or any condition of any licence, permit or authorisation 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 with fine,	Section 32. Punishment and penalties for offences and contraventions for which no punishment is provided.— Whoever contravenes any provision of this Act or any rule or order made thereunder or any other act for the time being in force for which no punishment or penalty is separately provided in this Chapter, shall be liable to a civil penalty which may extend to ten thousand rupees, and shall also be liable to suspension or revocation of their licence, permit or authorisation or registration, as the case may be. Provided that whoever knowingly contravenes any provision of this Act or any rule or order made, or any condition of any licence, permit or authorisation issued with the intent to facilitate illicit traffic in or diversion of narcotic drugs or psychotropic substances, including the financing of offences or harbouring of offenders, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both." Suggested insertion after section 32 "Section 32AA. Appointment of authorities (1) The Central State Government may, for the purposes of sections 26, 27(6) and 32, by	<u>Industry comments:</u> Please see the proposed changes to the text of Section 32 in the adjacent column to the left. The proposed changes are intended to ensure that controlled substances are also covered under this provision. The addition of the language "... <i>any other act in force</i>" is necessary because a licit entity can have a licence under the Drugs and Cosmetics Act, but not under the NDPS Act. Such a situation could be covered under this section and should have access to civil penalties. The addition of the language "... <i>or registration</i>" is important for controlled substances, because that is subject to registration and not a licence.

		notification in the Official Gazette, appoint one or more persons to be the Adjudicating Authority for conducting inquiries and imposing civil penalties and community service under this Act. Provided that the Central State Government may appoint as many Adjudicating Authorities as may be necessary. (2) The Central State Government may appoint as the Adjudicating Authority, or associate with it, a social worker, a clinical psychologist, an officer of the State Government, or any other person having such qualifications or experience as may be prescribed. Section 32AB. Adjudication of civil penalties (1) Any inquiry into a contravention under section 26, 27(6) or section 32 shall be conducted by the Adjudicating Authority in such manner as may be prescribed. (2) The Adjudicating Authority shall have the power to summon any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in its opinion, may be useful or relevant to the inquiry. (3) No civil penalty or community service shall be imposed under this Act unless the person concerned has been given a reasonable opportunity of being heard. (4) Where, upon completion of the inquiry, the Adjudicating Authority is satisfied that a person is liable under section 27(6) or section 32, as the case may be, it may, by a reasoned order, impose such	
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		civil penalty or community service as is provided under this Act. Section 32AC. Appeal— (1) The Central State Government may by notification in the Official Gazette, appoint any officer or officers of the Central or State Government to act as an Appellate Authority. (2) Any person aggrieved by an order passed by the Adjudicating Authority under section 32B, may prefer an appeal within sixty days from the date of receipt of the order, in such form and manner as may be prescribed by the Central State Government. (3) The Appellate Authority may admit an appeal after the expiry of the said period of sixty days, if the appellant satisfies the Appellate Authority that he had sufficient cause for not preferring the appeal within that period. (4) The Appellate Authority may, after giving the parties to the appeal an opportunity of being heard, pass such an order as he may deem fit. (5) An appeal under sub-section (2) shall be disposed of within sixty days from the date of filing. (6) The amount of penalty imposed under section 32A or this section, if not paid, may be recovered as an arrear of land revenue.”	
21.	Section 32A. No suspension, remission or commutation in any sentence awarded under this Act —	Section 32A. No suspension, remission or commutation in any sentence awarded under this Act —	

	Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) , 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.	Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) , or any other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act shall be suspended or remitted or commuted.	
22.	Section 32B. Factors to be taken into account for imposing higher than the minimum punishment.— Where a minimum term of imprisonment or amount of fine is prescribed for any offence committed under this Act, the court may, in addition to such factors as it may deem fit, take into account the following factors for imposing a punishment higher than the minimum term of imprisonment or amount of fine, namely:-- (a) the use or threat of use of violence or arms by the offender; (b) the fact that the offender holds a public office and that he has taken advantage of that office in committing the offence; (c) the fact that the minors are affected by the offence or the minors are used for the commission of an offence; (d) the fact that the offence is committed	Section 32B. Factors to be taken into account for imposing higher than the minimum punishment. – Where a minimum term of imprisonment or amount of fine is prescribed for any offence committed under this Act, the court may, in addition to such factors as it may deem fit, take into account the following factors for imposing a punishment higher than the minimum term of imprisonment or amount of fine, namely: -- (a) the use or threat of use of violence or arms by the offender; (b) the fact that the offender holds a public office and that he has taken advantage of that office in committing the offence; (c) the fact that the children are affected by the offence or children are hired, employed, engaged or used for the commission of an offence; (d) the fact that the offence is committed in an educational institution or social service facility or	

	in an educational institution or social service facility or in the immediate vicinity of such institution or faculty or in other place to which school children and students resort for educational, sports and social activities; (e) the fact that the offender belongs to organised international or any other criminal group which is involved in the commission of the offence; and (f) the fact that the offender is involved in other illegal activities facilitated by commission of the offence.	in the immediate vicinity of such institution or faculty or in other place to which school children and students resort for educational, sports and social activities; (e) the fact that the offender belongs to organized international or any other criminal group which is involved in the commission of the offence; (f) the fact that the offender is involved in other illegal activities facilitated by commission of the offence; and (g) the fact that the offender is involved in illegal trafficking of more than one substance covered under the Act.	
23.	Section 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 (2 of 1974) or in the Probation of Offenders Act, 1958 (20 of 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.	“33. Application of section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and of the Probation of Offenders Act, 1958.— Nothing contained in section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) or in the Probation of Offenders Act, 1958 (20 of 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.”	
24.	Section 34. Security for abstaining from commission of offence –	Section 34. Security for abstaining from commission of offence–	

(1) 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 thinks fit to fix. (2) 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 (2 of 1974), 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. (3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void. (4) 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.	(1) 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 thinks fit to fix. (2) The bond shall be in such form as may be prescribed by the Central Government and the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023)., 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 125 of that Sanhita. (3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void. (4) 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.	
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25.	Section 35. Presumption of culpable mental state.— (1) 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 defence 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. Explanation.—In this section “culpable mental state” includes intention motive, knowledge of a fact and belief in, or reason to believe, a fact. (2) 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.	Section 35. Presumption of culpable mental state.— (1) In any prosecution for an offence under this Act which requires a culpable mental state of the accused, except for an offence under Section 32 except for a case involving a licit entity, the court shall presume the existence of such mental state but it shall be a defence 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. Explanation.—In this section “culpable mental state” includes intention motive, knowledge of a fact and belief in, or reason to believe, a fact. (2) 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.	<u>Industry comment:</u> Please see the changes proposed to the text of Section 35 in the adjacent column to the left. A licit entity is authorized under law (such as by way of a licence, certificate etc) to deal with narcotic drugs, psychotropic substances and controlled substances. Therefore, it is contradictory for Section 35 to also apply to licit entities i.e., when a licit entity is already authorized under the law, it cannot also then be subject to a presumed culpable mental state for an offence under the Act. The benefit of doubt must go to the licit entity given that it has been authorized under the law. In the case of licit entities, the prosecution must prove that the licit entity possessed the necessary culpable mental state i.e., the prosecution should bear the burden of proving that the licit entity intentionally engaged in an act of diversion.
26.	Section 36A. Offences triable by Special Courts.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),	Section 36A. Offences triable by Special Courts. – (1) Notwithstanding anything contained in the Bhartiya Nagarik Suraksha Samhita, 2023, (b) where a person accused of or suspected of the commission of an offence under this Act is	

(b) where 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 (2 of 1974), such Magistrate may authorise 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 in cases which are triable by the Special Court where such Magistrate considers— (i) when such person is forwarded to him as aforesaid; or (ii) upon or at any time before the expiry of the period of detention authorised by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction; (c) 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	forwarded to a Magistrate under sub-section (2) or sub-section (3) of section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), such Magistrate may authorise 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 in cases which are triable by the Special Court where such Magistrate considers— (i) when such person is forwarded to him as aforesaid; or (ii) upon or at any time before the expiry of the period of detention authorised by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction; (c) 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 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), in relation to an accused person in such case who has been forwarded to him under that section.	
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may exercise under section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to an accused person in such case who has been forwarded to him under that section. (d) a Special Court may, upon perusal of police report of the facts constituting an offence under this Act or upon complaint made by an officer of the Central Government or a State Government authorised in his behalf, take cognizance of that offence without the accused being committed to it for trial. (2) 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 (2 of 1974), be charged at the same trial. (3) Nothing contained in this section shall be deemed to affect the special powers of	(d) a Special Court may, upon perusal of police report of the facts constituting an offence under this Act or upon complaint made by an officer of the Central Government or a State Government authorized in his behalf, take cognizance of that offence without the accused being committed to it for trial. <i>Explanation:-</i> For the removal of doubts, it is clarified that complaint shall include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not. (2) 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 Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), be charged at the same trial. (3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), 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	
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the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974), 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. 5) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) thereof to “ninety days”, where they occur, shall be construed as reference to “one hundred and eighty days”: Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.	reference to a “Special Court” constituted under section 36. (4) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) thereof to “ninety days”, where they occur, shall be construed as reference to “one hundred and eighty days” and forty days or sixty days” shall be construed as reference to “forty days or one hundred and twenty days”: Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days. (5) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), the offences punishable under this Act with imprisonment for a term of not more than three years may be tried summarily.	
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	(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offences punishable under this Act with imprisonment for a term of not more than three years may be tried summarily.		
27.	Section 36 B. 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 (2 of 1974) 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.	Section 36 B. Appeal and revision.—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXXI and XXXII of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), 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.	
28.	Section 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 (2 of 1974), (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	Section 36C. Application of Sanhita to proceedings before a Special Court.—Save as otherwise provided in this Act, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), (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	

	Special Court, shall be deemed to be a Public Prosecutor.		
29.	Section 36D. Transitional provisions.— (1) Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989), which is triable by a Special Court shall, until a Special Court is constituted under section 36, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), be tried by a Court of Session. (2) Where any proceedings in relation to any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989) are pending before a Court of Session, then, notwithstanding anything contained in sub-section (1), such proceeding shall be heard and disposed of by the Court of Session: Provided that nothing contained in this sub-section shall affect the power of the High Court under section 407 of the Code of Criminal Procedure, 1973 (2 of 1974) to transfer any case or class of cases taken cognizance by a Court of Session under sub-section (1).	Section 36D. Transitional provisions.— (1) Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989), which is triable by a Special Court shall, until a Special Court is constituted under section 36, notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), be tried by a Court of Session. (2) Where any proceedings in relation to any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989) are pending before a Court of Session, then, notwithstanding anything contained in sub-section (1), such proceeding shall be heard and disposed of by the Court of Session: Provided that nothing contained in this sub-section shall affect the power of the High Court under section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) to transfer any case or class of cases taken cognizance by a Court of Session under sub-section (1).	

30.	Section 37. Offences to be cognizable and non-bailable. -- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-- (a) every offence punishable under this Act shall be cognizable; (b) no person accused of an offence punishable for ¹[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (ii) 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. (2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of	Section 37. Offences to be cognizable and non-bailable-- (1) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 or any other law for the time being in force - (a) every offence punishable under this Act shall be cognizable; (b) offences involving a small quantity or punishable with imprisonment of up to three years, shall be bailable; (c) all other offences shall be non-bailable. (2) No person accused of an offence under section 19 or section 24 or section 27A or of an offence involving commercial quantity shall be released on bail or on his own bond unless- (a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and (b) where the Public Prosecutor opposes the application, the Court, having regard to- (i) the nature and gravity of the offence and the role attributed to the accused;	<u>Industry comment:</u> Please see changes proposed to the text of Section 37 in the adjacent column to the left.
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	1974) or any other law for the time being in force on granting of bail.	(ii) the antecedents of the accused and the likelihood of commission of an offence under this Act while on bail: (iii) the likelihood of absconding, and (iv) the likelihood of tampering with evidence or influencing witnesses, may grant or refuse bail for reasons to be recorded in writing. (3) Notwithstanding anything contained in sub-section (2), the Court shall ordinarily grant bail where- (a) the trial has not commenced, or is unlikely to conclude within a reasonable period through no fault of the accused; or (b) the accused has undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for the offence: unless the Court, for reasons to be recorded in writing, is satisfied that the accused is likely to (i) abscond or fail to attend in accordance with the conditions of the bond; or (ii) tamper with evidence or influence witnesses; or (iii) commit an offence under this Act while on bail.	
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		Provided that the Court may, in appropriate cases, grant bail based on the nature and circumstances of the offence and the role attributed to the accused, and only after recording reasons in writing. (4) The conditions on the grant of bail specified in sub-section (2) shall apply only to offences specified therein, and in all other cases, bail shall be governed by the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023).	
31.	Section 39. Power of court to release certain offenders on probation. — (1) When any addict is found guilty of an offence punishable under section 27 or for offences relating to small quantity of any narcotic drug or psychotropic substance 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	39. Power of court to release certain addicts on a bond. — (1) Where, notwithstanding the operation of section 27, any addict is charged with an offence relating to small quantity of any narcotic drug or psychotropic substance and if the court is of the opinion, having given regard to the age, character, antecedents or physical or mental condition of the person so charged, 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 proceeding to trial, 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 recognised 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 or progress of his medical treatment and,	

	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. (2) If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under sub-section (1), 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.	in the meantime, to abstain from the commission of any offence under Chapter IV. Provided that the release of an addict on a bond under this section may also be extended to an addict charged with an offence involving a quantity lesser than commercial quantity but greater than small quantity, where the court is satisfied, having regard to the circumstances of the case and the material placed before it, that such possession was for personal use or consumption and not for illicit traffic or any purpose connected therewith. (2) If it appears to the court, having regard to the report on the progress or result of the medical treatment furnished under sub-section (1), that it is expedient so to do, the court may direct the discharge of the accused.”	
32.	Section 41. Power to issue warrant and authorisation.— (1) A Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in	Section 41. Power to issue warrant and authorization.— (1) A Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant	Industry comments: Please see proposed changes to the text of the draft provision in the adjacent column to the left. It is an important procedural safeguard that the relevant officer exercising powers under Section

	this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed. (2) Any such officer of gazetted rank of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including the para- military forces or the armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, police or any other department of a State	for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed. (2) Any such officer of gazetted rank of the departments of central excise, <i>central goods and services tax, central bureau of narcotics, narcotics control bureau</i>, customs, revenue intelligence or any other department of the Central Government including the para-military forces or the armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government <i>if he has reason to believe, on the basis of personal knowledge or information given by any person that is noted</i>	42(1) notes down in writing any information given to him by a person, when then formed the basis of the officer's "reason to believe" an offence has been committed. The original proposed amendment where the officer is only required to record his reasons in writing is an insufficient safeguard, as it relies on the officer's biases and creates potential for abuse. If the information that the officer relied upon is noted down in writing, the officer's reasoning can then be objectively tested against the notes taken in writing.
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Government as is empowered in this behalf by general or special order of the State Government if he has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him but superior in rank to a peon, sepoy or a constable to arrest such a person or search a building, conveyance or place whether by day or by night or himself arrest such a person or search a building, conveyance or place. (3) The officer to whom a warrant under sub-section (1) is addressed and the officer	down in writing such reasons are recorded that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him but superior in rank to a peon, sepoy or a constable to arrest such a person or search a building, conveyance or place whether by day or by night or himself arrest such a person or search a building, conveyance or place. (3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorised the arrest or search or the officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 42.]	
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	who authorised the arrest or search or the officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 42.		
33.	Section 42. Power of entry, search, seizure and arrest without warrant or authorisation.— (1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may	Section 42. Power of entry, search, seizure and arrest without warrant or authorisation.— (1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, <i>central goods and services tax, central bureau of narcotics, narcotics control bureau</i>, customs, revenue intelligence or any other department of the Central Government including para- military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, <i>if he has reason to believe, on the basis of personal knowledge or information given by any person that is noted down in writing and such reasons are recorded in writing</i> that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may	<u>Industry comments:</u> Please see proposed changes to the text of the draft provision in the adjacent column to the left. - It is an important procedural safeguard that the relevant officer exercising powers under Section 42(1) <u>notes down in writing</u> any information given to him by a person, when then formed the basis of the officer's "<i>reason to believe</i>" an offence has been committed. The original proposed amendment where the officer is only required to record his reasons in writing is an insufficient safeguard, as it relies on the officer's biases and creates potential for abuse. If the information that the officer relied upon is noted down in writing, the officer's reasoning can then be objectively tested against the notes taken in writing. - Please see proposed second proviso to Section 42(1)(d). This provision should distinguish approach and procedure for arrest of licit entities (i.e., medical practitioners, cultivators, pharmaceutical industry, educational research & development institutions, veterinarians, hospitals, care givers, rehabilitation centres). In the case of licit entities, no arrest should be made

	furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset - (a) enter into and search any such building, conveyance or place; (b) in case of resistance, break open any door and remove any obstacle to such entry; (c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and (d) detain and search, and, if he thinks	furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset.- (a) enter into and search any such building, conveyance or place; (b) in case of resistance, break open any door and remove any obstacle to such entry; (c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and (d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act: Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be	without the officer having followed the procedure prescribed under Section 67 of the Act.
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	proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act: Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector. Provided further that if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief. (2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.]	exercised by an officer not below the rank of sub-inspector. Provided that in respect of a licit entity, no arrest under sub-section (d) above shall be made, unless the officer (not below the rank of an inspector) conducts an enquiry under section 67, confers with the authority that granted the licit entity its license, permit, authorization or certificate, and records his satisfaction that it is a case of diversion. Provided further that if such officer has reason to believe that a search warrant or authorization cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief. (2) Where an officer takes down any information in writing under sub-section (1) or records his satisfaction or grounds for his belief as the case may be in accordance with the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.	
34.	Section 50. Conditions under which search of persons shall be conducted. (1) When any officer duly authorised under section 42 is about to search any	Section 50. Conditions under which search of persons shall be conducted. (1) When any officer duly authorised under section 42 is about to search any person under the	

person under the provisions of section 41, section 42 or section 43, he shall, if such person so requires, take such person without unnecessary delay to nearest Gazetted Officer of any of the departments mentioned in section 42 or to the nearest Magistrate. (2) If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in sub-section (1). (3) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made. (4) No female shall be searched by anyone excepting a female. (5) When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest	provisions of section 41, section 42 or section 43, he shall, if such person so requires, take such person without unnecessary delay to nearest Gazetted Officer of any of the departments mentioned in section 42 or to the nearest Magistrate. (2) If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in sub-section (1). (3) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made. (4) No female shall be searched by anyone excepting a female. (5) When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest Gazetted Officer or Magistrate, proceed to search the person as provided under section 103	
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	Gazetted Officer or Magistrate, proceed to search the person as provided under section 100 of the Code of Criminal Procedure, 1973 (2 of 1974). (6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.	of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023). (6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.	
35.	“Section 50A- Power to undertake controlled delivery The Director General of Narcotics Control Bureau constituted under Sub-section (3) of section 4 or any officer authorized by him in this behalf; may; notwithstanding anything contained in this Act, undertake controlled delivery of any consignment to (a) any destination in India, (b) a foreign country, in consultation with the competent authority of such foreign country to which such consignment is destined, in such manner as may be prescribed.	“Section 50A- Power to undertake controlled delivery The Director General of Narcotics Control Bureau constituted under sub-section (3) of section 4 or the Director General of Directorate of Revenue Intelligence under the Board or the Narcotics Commissioner of Central Bureau of Narcotics appointed under sub section(1) of section 5 or any officer authorized by any of them in this behalf; may; notwithstanding anything contained in this Act, undertake controlled delivery of any consignment to (a) any destination in India, (b) a foreign country, in consultation with the competent authority of such foreign country to which such consignment is destined, in such manner as may be prescribed.	

36.	Section 51. Provisions of the code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and seizures.— The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act	Section 51. Provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 to apply to warrants, arrests, searches and seizures.— The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.	
37.	Section 52A. Disposal of seized narcotic drugs and psychotropic substances.— (1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time,	Section 52A. Disposal of seized narcotic drugs and psychotropic substances.— (1) The Central Government may, having regard to the hazardous nature, vulnerability to theft, substitution, constraint of proper storage space or any other relevant consideration, in respect of any narcotic drugs, psychotropic substances, controlled substances or conveyances, by notification in the Official Gazette, specify such narcotic drugs, psychotropic substances, controlled substances or conveyance or class of narcotic drugs, class of psychotropic substances, class of controlled substances or conveyances, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified. (2) Where any narcotic drugs, psychotropic substances, controlled substances or conveyances has been seized and forwarded to the officer-in-	

determine after following the procedure hereinafter specified. (2) Where any narcotic drugs, psychotropic substances, controlled substances or conveyances has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs, psychotropic substances, controlled substances or conveyances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs, psychotropic substances, controlled substances or conveyances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs, psychotropic substances, controlled substances or conveyances in any proceedings under this Act and make an application, to any Magistrate for the purpose of— (a) certifying the correctness of the inventory so prepared; or (b) taking, in the presence of such magistrate, photographs of such drugs, substances or conveyances and certifying	charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs, psychotropic substances, controlled substances or conveyances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs, psychotropic substances, controlled substances or conveyances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs, psychotropic substances, controlled substances or conveyances in any proceedings under this Act and make an application, to any Magistrate for the purpose of— (a) certifying the correctness of the inventory so prepared; or (b) taking, in the presence of such magistrate, photographs of such drugs, substances or conveyances and certifying such photographs as true; or (c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn. (3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application. (4) Notwithstanding anything contained in the Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023) or the Bharatiya Nagarik Suraksha Sanhita,	
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	such photographs as true; or (c) allowing to draw representative samples of such drugs or substances, in the presence of such magistrate and certifying the correctness of any list of samples so drawn. (3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application. (4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1972) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of 1[narcotic drugs, psychotropic substances, controlled substances or conveyances] and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.	2023 (Act 46 of 2023) every court trying an offence under this Act, shall treat the inventory, the photographs of 1[narcotic drugs, psychotropic substances, controlled substances or conveyances] and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.	
38.	Section 53. Power to invest officers of certain departments with powers of an officer-in-charge of a police station. (1) The Central Government, after consultation with the State Government, may, by notification published in the Official Gazette, invest any officer of the department of central excise, narcotics, customs, revenue intelligence or any other department of the Central	Section 53. Power to invest officers of certain departments with powers of an officer-in-charge of a police station. (1) The Central Government, after consultation with the State Government, may, by notification published in the Official Gazette, invest any officer of the department of central excise, <i>central goods and services tax</i>, central bureau of narcotics, <i>narcotics control bureau</i>, customs, revenue intelligence ¹[or any other department of	

	Government including para-military forces or armed forces or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of the offences under this Act. The State Government may, by notification published in the Official Gazette, invest any officer of the department of drugs control, revenue or excise ²[or any other department] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of offences under this Act.	the Central Government including para-military forces or armed forces or any class of such officers] with the powers of an officer-in-charge of a police station for the investigation of the offences under this Act. The State Government may, by notification published in the Official Gazette, invest any officer of the department of drugs control, revenue or excise ²[or any other department] or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of offences under this Act.	
39.	Section 58. Punishment for vexatious entry, search, seizure or arrest. (1) Any person empowered under section 42 or section 43 or section 44 who— (a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place; (b) vexatiously and unnecessarily seizes the property of any person on the pretense of seizing or searching for any narcotic drug or psychotropic substance or other article liable to be confiscated under this Act, or of seizing any document or other article liable to be seized under section 42, section 43 or	Section 58. Punishment for vexatious entry, search, seizure or arrest. (1) Any person empowered under section 42 or section 43 or section 44 who— (a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place; (b) vexatiously and unnecessarily seizes the property of any person on the pretense of seizing or searching for any narcotic drug or psychotropic substance or other article liable to be confiscated under this Act, or of seizing any document or other article liable to be seized under section 42, section 43 or section 44; or (c) vexatiously and unnecessarily detains,	<u>Industry comments:</u> Please see proposed changes in the adjacent column to the left. The punishment for vexatious entry, search, seizure and arrest must be serious so as to act as a deterrent.

	section 44; or (c) vexatiously and unnecessarily detains, searches or arrests any person, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. (2) Any person wilfully and maliciously giving false information and so causing an arrest or a search being made under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.	searches or arrests any person, shall be punishable with imprisonment for a term which may extend to two years six months or and with fine which may extend to five lakh rupees fifty thousand rupees, or with both. (2) Any person willfully and maliciously giving false information and so causing an arrest or a search being made under this Act shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.	
40.	Section 59. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.— (1) Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine or with both. (2) Any officer on whom any duty has been imposed by or under this Act or any	Section 59. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.— (1) Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine or with both. (2) Any officer on whom any duty has been imposed by or under this Act or any person who has been given the custody of— (a) any addict; or	

	person who has been given the custody of— (a) any addict; or (b) any other person who has been charged with an offence under this Act, and who wilfully aids in, or connives at, the contravention of any provision of this Act or any rule or order made thereunder, 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. Explanation.—For the purposes of this sub-section, the expression “officer” includes any person employed in a hospital or institution maintained or recognised by the Government or a local authority under section 64A for providing de-addiction treatment.	(b) any other person who has been charged with an offence under this Act, and who wilfully aids in, or connives at, the contravention of any provision of this Act or any rule or order made thereunder, 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. Explanation.—For the purposes of this sub-section, the expression “officer” includes any person employed in a hospital or institution maintained or recognised by the Government or a local authority under section 64A for providing de-addiction treatment.	
41.	Section 64. Power to tender immunity from prosecution.— (1) The Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or	Section 64. Power to tender immunity from prosecution.— (1) The Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or order made thereunder it is necessary or expedient so to do,	

order made thereunder it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention. (2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made. (3) If it appears to the Central Government or, as the case may be, the State Government, that any person to whom immunity has been tendered under this section has not complied with the conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government or, as the case may be, the State Government, may record a finding to that effect and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of	tender to such person immunity from prosecution for any offence under this Act or under the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention. (2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made. (3) If it appears to the Central Government or, as the case may be, the State Government, that any person to whom immunity has been tendered under this section has not complied with the conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government or, as the case may be, the State Government, may record a finding to that effect and thereupon the immunity shall be deemed to have been withdrawn and such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.	
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	immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.		
42.	Section 64A. Immunity from prosecution to addicts volunteering for treatment.— Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognized by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances: Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.]	Section 64A. Immunity from prosecution to addicts volunteering for treatment.— Any addict, who is <i>accused but not yet charged of</i> an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognized by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances: Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.]	
43.	Section 68B. Definitions.—In this Chapter, unless the context otherwise requires,— (a) “Appellate Tribunal” means the Appellate Tribunal 1[referred to in] section 68N;	Section 68B. Definitions. —In this Chapter, unless the context otherwise requires, (a) “Appellate Tribunal” means the Appellate Tribunal 1[referred to in] section 68N; -- ((b)(iii) any association of persons, body of	

	-- (b)(iii) any association of persons, body of individuals, partnership firm, or private company within the meaning of the Companies Act, 1956 (1 of 1956), of which such person had been or is a member, partner or director; --- -- [(h) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, wherever located and includes deeds and instruments evidencing title to, or interest in, such property or assets;] -- k) “trust” includes any other legal obligation.	individuals, partnership firm, or private company within the meaning of the Companies Act, (18 of 2013), of which such person had been or is a member, partner or director; --- -- 3[(h) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangibles, wherever located, whether in India or abroad, and includes deeds and instruments evidencing title to, or interest in, such property or assets;] -- k) “trust” includes any other legal obligation.	
44.	Section 68C. Prohibition of holding illegally acquired property. (1) As from the commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegally acquired property either by himself or through any other person on his behalf.	Section 68C. Prohibition of holding illegally acquired property. (1) As from the commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegally acquired property either by himself or through any other person on his behalf. (2) Where any person holds any illegally acquired property in contravention of the	

	(2) Where any person holds any illegally acquired property in contravention of the provisions of sub-section (1), such property shall be liable to be forfeited to the Central Government in accordance with the provisions of this Chapter: [Provided that no property shall be forfeited under this Chapter if such property was acquired, by a person to whom this Act applies, before a period of six years from the date he was arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act or from the date the order or detention was issued, as the case may be.]]	provisions of sub-section (1), such property shall be liable to be forfeited to the Central Government in accordance with the provisions of this Chapter: [Provided that no property shall be forfeited under this Chapter if such property was acquired, by a person to whom this Act applies, before a period of six years from the date he was arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act or from the date the order or detention was issued, as the case may be.]]	
45.	68D.Competent authority. (1) The Central Government may, by order published in the Official Gazette, authorise 1 [any Commissioner of Customs or Commissioner of Central Excise] or Commissioner of Income-tax OF any other officer of the Central Government of equivalent rank to perform the functions of the competent authority under this Chapter	68D. Competent authority. (1) The Central Government may, by order published in the Official Gazette, authorise 1 [any Commissioner of Customs or Commissioner of Central Goods and Services Tax or Commissioner of Central Excise or Commissioner of Income-tax OF any other officer of the Central Government of equivalent rank to perform the functions of the competent authority under this Chapter.	
46.	68F. Seizure or freezing of illegally acquired property.—	68F. Seizure or freezing of illegally acquired property.—	

	(1) Where any officer conducting an inquiry or investigation under section 68E has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which will result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned: Provided that the competent authority shall be duly informed of any order made under this sub-section and a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made. (2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made.	(1) Where any officer conducting an inquiry or investigation under section 68E has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which will result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned: Provided that the competent authority shall be duly informed of any order made under this sub-section and a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made. (2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of sixty days of its being made.	
47.	Section 68T. Certain officers to assist	Section 68T. Certain officers to assist	

Administrator, competent authority and Appellate Tribunal – For the purposes of any proceedings under this Chapter, the following officers are hereby empowered and required to assist the Administrator appointed under section 68G, competent authority and the Appellate Tribunal, namely:-- (a) officers of the Narcotics Control Bureau; (b) officers of the Customs Department; (c) officers of the Central Excise Department; (d) officers of the Income-tax Department; (e) officers of enforcement appointed under the Foreign Exchange Regulation Act, 1973 (46 of 1973); (f) officers of police; (g) officers of the Narcotics Department; (h) officers of the Central Economic Intelligence Bureau; (i) officers of the Directorate of Revenue Intelligence;	Administrator, competent authority and Appellate Tribunal – For the purposes of any proceedings under this Chapter, the following officers are hereby empowered and required to assist the Administrator appointed under section 68G, competent authority and the Appellate Tribunal, namely: -- (a) officers of the Narcotics Control Bureau; (b) officers of the Customs Department; (c) officers of the Central goods and Services Tax Department; (d) officers of the Income-tax Department; (e) officers of Enforcement appointed under the Foreign Exchange Management Act, 1999 (42 of 1999); (f) officers of police; (g) officers of the Central Bureau of Narcotics; (h) officers of the Central Economic Intelligence Bureau; (i) officers of the Directorate of Revenue Intelligence; (j) such other officers of the Central or State Government as are specified by the Central Government in this behalf by notification in the Official Gazette.	
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	(j) such other officers of the Central or State Government as are specified by the Central Government in this behalf by notification in the Official Gazette.]		
48.	68X Service of notices and orders.— Any notice or order issued or made under this Chapter shall be served—(a) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;	68X Service of notices and orders.— Any notice or order issued or made under this Chapter shall be served—(a)by tendering the notice or order or sending it by registered post or speed post to the person for whom it is intended or to his agent;	
49.	68Z. Release of property in certain cases.— (1) Where the detention order of a detenu is set aside or withdrawn, properties seized or frozen under this Chapter shall stand released.	68Z. Release of property in certain cases.— (1) Where the detention order of a detenu is set aside or withdrawn or revoked , properties seized or frozen under this Chapter shall stand released.	
50.	71. Power of Government to establish centres for identification, treatment, etc., of addicts and for supply of narcotic drug and psychotropic substances.— (1) The Government may establish, recognise or approve as many centres as it thinks fit for identification, treatment, management, education, after-care, rehabilitation, social re-integration of addicts and for supply, subject to such conditions and in such manner as may be	“Section 71. Power of Government to establish centres for identification, treatment, etc., of addicts and for supply of narcotic drug and psychotropic substances. (1) The Central or State Government may establish, recognise or approve as many centres as it thinks fit for identification, voluntary treatment, management, education, after-care, rehabilitation, social re-integration of addicts and persons with substance use disorders; and for supply, subject to such conditions and in such manner as may be prescribed, by the concerned Government of any	

	prescribed, by the concerned Government of any narcotic drugs and psychotropic substances to the addicts registered with the Government and to others where such supply is a medical necessity. (2) The Government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of, and for supply of narcotic drugs and psychotropic substances from, the centres referred to in sub-section (1) and for the appointment, training, powers, duties and persons employed in such centres.	narcotic drugs and psychotropic substances to those who seek treatment, management, education, after-care, rehabilitation, social re-integration services registered with the Government and to others where such supply is a medical necessity. (2) The Central or State Government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of, and for supply of narcotic drugs and psychotropic substances from, the centres referred to in sub-section and for the appointment, training, powers, duties and persons employed in such centres, provided that such rules are consistent with the provision of the Mental Healthcare Act, 2017 for Mental Health Establishments.”	
51.	Section 76 Power of Central Government to make rules.— (1) Subject to the other provisions of this Act, the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the method by which percentages in the case of liquid preparations shall be	Section 76 Power of Central Government to make rules.— (1) Subject to the other provisions of this Act, the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the method by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (v), (vi) (xiv) and (xv) of section 2	

	calculated for the purposes of clauses (v), (vi) (xiv) and (xv) of section 2 (b) the form of bond to keep the peace to be executed under section 34; (c) the form of bond to be executed for release of an addict convict for medical treatment under sub-section (1) of section 39 and the bond to be executed by such convict before his release after due admonition under sub-section (2) of that section; [(ca) the manner in which “controlled delivery” under section 50A is to be undertaken;] (d)	(b) the form of bond to keep the peace to be executed under section 34; (c) the form of bond to be executed for release of an addict charged with an offence involving small quantity for medical treatment under sub-section (1) of section 39; and the bond to be executed by such convict before his release after due admonition under sub-section (2) of that section; [(ca) the manner in which “controlled delivery” under section 50A is to be undertaken;] (d)	
52.	77. Rules and notifications to be laid before Parliament.— [Every rule made under this Act by the Central Government and every notification or order issued under clause (vii-a), clause (xi), clause (xxiii-a) of Section 2, Section 3, Section 7-A, Section 9-A and clause (a) of Section 27 shall be laid, as soon as may be, after it is made or issued], 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 or more successive sessions, and if, before	77. Rules and notifications to be laid before Parliament.— [Every rule made under this Act by the Central Government and every notification or order issued under (vii-a), clause (xi), clause (xxiii-a) of Section 2, Section 3, Section 7-A, Section 9-A and clause (a) of Section 27 shall be laid, as soon as may be, after it is made or issued], 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses	

	the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or the notification 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 or notification.	agree to make any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or the notification 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 or notification.	
53.	78. Power of State Government to make rules.— (1) Subject to the other provisions of this Act, the State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the conditions and the manner in which narcotic drugs and psychotropic substances shall be supplied for medical necessity to the addicts registered with the State Government and others under sub-section (1) of section 71;	78. Power of State Government to make rules.— (1) Subject to the other provisions of this Act, the State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the conditions and the manner in which narcotic drugs and psychotropic substances shall be supplied for medical necessity to the addicts registered with the State Government and others under sub-section (1) of section 71; (b) the establishment, appointment, maintenance, management, superintendence of centres established under sub-section (1) of section 71 and	

	(b) the establishment, appointment, maintenance, management, superintendence of centres established under sub-section (1) of section 71 and appointment, training, powers and duties of persons employed in such centres; (c) any other matter which is to be, or may be, prescribed. (3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of that State.	appointment, training, powers and duties of persons employed in such centres; “(c) constitution, composition and functioning of the adjudicating authority; (d) protection of confidentiality and personal information of persons approaching or being referred for treatment, counselling or de-addiction under this section; (e) procedure for conduct of inquiry, and imposition, enforcement and recovery of civil penalties and community service under sub-section (4) of section 27; and”. (f) any other matter which is to be, or may be, prescribed. (3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of that State.	
54.	Section 82.Repeal and savings.— (1) The Opium Act, 1857 (13 of 1857), the Opium Act, 1878 (1 of 1878) and the Dangerous Drugs Act, 1930 (2 of 1930) are hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under any of the enactments repealed by sub-section (1) shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.	Section 82.Repeal and savings.— (1) The Opium Act, 1857 (13 of 1857), the Opium Act, 1878 (1 of 1878) and the Dangerous Drugs Act, 1930 (2 of 1930) are hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under any of the enactments repealed by sub-section (1) shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act. (3) (i) Notwithstanding the repeal of the Indian Penal Code, 1860 (45 of 1860) by the Bharatiya Nyaya Sanhita, 2023 (45 of 2023), any reference to the	

		Bharatiya Nyaya Sanhita, 2023 (45 of 2023) in this Act will be deemed to be a reference to a corresponding provision in the Indian Penal Code, 1860 immediately before the coming into force of the Act 45 of 2023. (ii) Notwithstanding the repeal of the Code of Criminal Procedure, 1973 (2 of 1974) by Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), any reference to the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) in this Act will be deemed to be a reference to a corresponding provision in the Code of Criminal Procedure Code immediately before the coming into force of the Act 46 of 2023. (iii) Notwithstanding the repeal of the Indian Evidence Act, 1872 (1 of 1872) by the Bharatiya Sakshya Adhiniyam, 2023 (47 of 2023), any reference to the Bharatiya Sakshya Adhiniyam, 2023 (47 of 2023) in this Act will be deemed to be a reference to a corresponding provision in the Indian Evidence Act, 1872 immediately before the coming into force of the Act 47 of 2023.	
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