

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988

(ACT NO. 46 OF 1988)

[*As on the* 21*st May*, 2025]

LIST OF AMENDING ACTS

1. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1990 (26 of 1990).
2. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1993 (53 of 1993).
3. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1996 (16 of 1996).
4. The Repealing and Amending Act, 2001 (30 of 2001).

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LIST OF ABBREVIATIONS USED

Cl., cls.	. . . . .	*for*	Clause, clauses.
Ins.	. . . . .	,,	Inserted.
Notifn.	. . . . .	,,	Notification.
S., ss.	. . . . .	,,	Section, sections.
Sch.	. . . . .	,,	Schedule.
Subs.	. . . . .	,,	Substituted.
w.e.f.	. . . . .	,,	with effect from.

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THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988

ARRANGEMENT OF SECTIONS

SECTIONS

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THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988

ACT NO. 46 OF 1988

[6*th September*, 1988.]

An Act to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and for matters connected therewith.

WHEREAS illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy;

AND WHEREAS having regard to the persons by whom and the manner in which such activities are organised and carried on, and having regard to the fact that in certain areas which are highly vulnerable to the illicit traffic in narcotic drugs and psychotropic substances, such activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities to provide for detention of persons concerned in any manner therewith.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir*.

(*3*) It shall be deemed to have come into force on the 4th day of July, 1988.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means, as respects a detention order made by the Central Government or by an officer of the Central Government, or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer of a State Government, or a person detained under such order, the State Government;

(*b*) "customs airport" means any airport appointed under clause (*a*) of section 7 of the Customs Act, 1962 (52 of 1962) to be a customs airport;

(*c*) "detention order" means an order made under section 3;

(*d*) "foreigner" has the same meaning as in the Foreigners Act, 1946 (31 of 1946);

(*e*) "illicit traffic", in relation to narcotic drugs and psychotropic substances, means—

(*i*) cultivating any coca plant or gathering any portion of coca plant;

(*ii*) cultivating the opium poppy or any cannabis plant;

(*iii*) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transhipment, of narcotic drugs or psychotropic substances;

(*iv*) dealing in any activities in narcotic drugs or psychotropic substances other than those provided in sub-clauses (*i*) to (*iii*); or

* *Vide* notification No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

(*v*) handling or letting any premises for the carrying on of any of the activities referred to in sub-clauses (*i*) to (*iv*),

other than those permitted under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder and includes—

(*1*) financing, directly or indirectly, any of the aforementioned activities;

(*2*) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and

(*3*) harbouring persons engaged in any of the aforementioned activities;

(*f*) "Indian customs waters" has the same meaning as in clause (*28*) of section 2 of the Customs Act, 1962 (52 of 1962);

(*g*) "State Government", in relation to a Union territory, means the Administrator thereof;

(*h*) words and expressions used herein but not defined, and defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), have the meanings respectively assigned to them in that Act.

3. Power to make orders detaining certain persons.—(*1*) The Central Government or a State Government, or any officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained.

(*2*) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(*3*) For the purposes of clause (*5*) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing not later than fifteen days, from the date of detention.

4. Execution of detention orders.—A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. Power to regulate place and conditions of detention.—Every person in respect of whom a detention order has been made shall be liable—

(*a*) to be detained in such place and under such conditions including conditions as to maintenance, interviews or communication with others, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(*b*) to be removed from one place of detention to another place of detention, whether within the same State or in another State by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (*b*) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. Grounds of detention severable.—Where a person has been detained in pursuance of an order of detention under sub-section (*1*) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(*a*) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(*i*) vague,

(*ii*) non-existent,

(*iii*) not relevant,

(*iv*) not connected or not proximately connected with such person, or

(*v*) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (*1*) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(*b*) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (*1*) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds.

7. Detention orders not to be invalid or inoperative on certain grounds.—No detention order shall be invalid or inoperative merely by reason—

(*a*) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or the officer making the order of detention; or

(*b*) that the place of detention of such person is outside the said limits.

8. Powers in relation to absconding persons.—(*1*) If the appropriate Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government may—

(*a*) make a report in writing of the fact to a Metropolitan Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(*b*) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under clause (*b*) of sub- section (*1*) shall be cognizable.

9. Advisory Boards.—For the purposes of sub-clause (*a*) of clause (4) and sub-clause (*c*) of clause (7) of article 22 of the Constitution,—

(*a*) the Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (*a*) of clause (4) of article 22 of the Constitution;

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(*b*) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (*a*) to enable the Advisory Board to make the report under sub-clause (*a*) of clause (4) of article 22 of the Constitution;

(*c*) the Advisory Board to which a reference is made under clause (*b*) shall after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(*d*) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;

(*e*) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(*f*) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

10. Cases in which and circumstances under which persons may be detained for periods longer than three months without obtaining the opinion of Advisory Board.—(*1*) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the [1][31st day of July, 1999], may be detained without obtaining, in accordance with the provisions of sub-clause (*a*) of clause (*4*) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention has been made against such person with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person engages or is likely to engage in illicit traffic in narcotic drugs and psychotropic substances into, out of, through or within any area highly vulnerable to such illicit traffic and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, "area highly vulnerable to such illicit traffic" means—

(*i*) the India customs waters;

(*ii*) the customs airports;

(*iii*) the metropolitan cities of Bombay, Calcutta, Delhi, Madras and the city of Varanasi;

1. Subs. by Act 16 of 1996, s. 2, for "31st day of July, 1996" (w.e.f. 31-7-1996).

(*iv*) the inland area one hundred kilometres in width from the coast of India falling within the territories of the States of Andhra Pradesh, Goa, Gujarat, Karnataka, Kerala, Maharashtra, Orissa, Tamil Nadu and West Bengal and the Union territories of Daman and Diu and Pondicherry;

(*v*) the inland area one hundred kilometres in width from—

(*a*) the India-Pakistan border in the States of Gujarat, Punjab and Rajasthan;

(*b*) the India-Nepal border in the States of Bihar, Sikkim, Uttar Pradesh and West Bengal;

(*c*) the India-Burma border in the States of Arunachal Pradesh, Manipur, Mizoram and Nagaland;

(*d*) the India-Bangladesh border in the States of Assam, Meghalaya, Tripura and West Bengal;

(*e*) the India-Bhutan border in the States of Arunachal Pradesh, Assam, Sikkim and West Bengal;

(*vi*) such other area or customs station, as the Central Government may, having regard to the vulnerability of such area or customs station, as the case may be, to illicit traffic, by notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of *Explanation 1*, "customs station" has the same meaning as in clause (*13*) of section 2 of the Customs Act, 1962 (52 of 1962).

(*2*) In the case of any person detained under a detention order to which the provisions of sub-section (*1*) apply, section 9 shall have effect subject to the following modifications, namely:—

(*i*) in clause (*b*), for the words "shall, within five weeks", the words "shall, within four months and two weeks" shall be substituted;

(*ii*) in clause (*c*),—

(*a*) for the words "the detention of the person concerned", the words "the continued detention of the person concerned" shall be substituted;

(*b*) for the words "eleven weeks", the words "five months and three weeks" shall be substituted;

(*iii*) in clause (*f*), for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted.

11. Maximum period of detention.—The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (*f*) of section 9 shall be one year from the date of detention, and the maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 apply and which has been confirmed under clause (*f*) of section 9, read with sub-section (*2*) of section 10, shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time.

12. Revocation of detention orders.—(*1*) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897 (10 of 1897), a detention order may, at any time, be revoked or modified—

(*a*) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

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(*b*) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(*2*) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.

13. Temporary release of persons detained.—(*1*) The Central Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government or by a State Government or by an officer subordinate to a State Government, may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(*2*) A State Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government may be released for any specified period either without conditions or upon such conditions specified in the direction as the person accepts, and may, at any time, cancel his release.

(*3*) In directing the release of any person under sub-section (*1*) or sub-section (*2*), the Government directing the release may require him to enter into a bond with sureties for the due observance of the conditions specified in the direction.

(*4*) Any person released under sub-section (*1*) or sub-section (*2*) shall surrender himself at the time and place, and to the authority, specified in the order directing his release, or cancelling his release, as the case may be.

(*5*) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (*4*), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*6*) If any person released under sub-section (*1*) or sub-section (*2*) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

(*7*) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.

14. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

15. [*Amendment of Act* 52 *of* 1974.] *Rep. by the Repealing and Amending Act,* 2001 (30 *of* 2001)*, s.* 2 *and the First Schedule (w.e.f.* 3-9-2001*)*.

16. Repeal and saving.—(*1*) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988 (Ord. 7 of 1988), is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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STATEMENT OF OBJECTS AND REASONS

In recent years, India has been facing a problem of transit traffic in illicit drugs. The spillover from such traffic has caused problems of abuse and addiction. This trend has created an illicit demand for drugs within the country which may result in the increase of illicit cultivation and manufacture of drugs. Although a number of legislative, administrative and other preventive measures, including the (deterrent penal provision.; in the Narcotic Drugs and Psychotropic Substances Act, 1985, have been taken by the Government, the transit traffic in illicit drugs had not been completely eliminated. It was, therefore, felt that a preventive detention law should be enacted with a view to effectively immobilising the traffickers. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 provides for preventive detention in relation to smuggling of drugs and psychotropic substances, but it cannot be invoked to deal with persons engaged in illicit traffic of drugs and psychotropic substances within the country. It was, therefore, felt that a separate legislation should be enacted for preventive detention of persons engaged in any kind of illicit traffic in narcotic drugs and psychotropic substances. Accordingly, the President promulgated the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988 on the 4th July, 1988. The Ordinance provided for the following, among other things, namely:—

(*i*) The Central Government and the State Governments have been empowered to make orders of detention with respect to any person (including a foreigner) if they are of opinion that it is necessary so to do with a view to preventing him from committing illicit traffic in narcotic drugs and psychotropic substances. The expression "illicit traffic" has been defined to include cultivation of any coca plant or gathering any portion of coca plants, cultivating the opium poppy or any cannabis plant, or engaging in the production, manufacture, possession, etc., of narcotic drugs or psychotropic substances.

(*ii*) Any person in respect of whom an order of detention is made under the Ordinance at any time before the 31st July, 1990 may be detained without obtaining the opinion of an Advisory Board for a period not exceeding one year from the date of his detention if the detaining authority is satisfied that such person is engaged. or is likely to engage, in illicit traffic in narcotic drugs and psychotropic substances in any area highly vulnerable to such illicit traffic. The Ordinance also defined the expression "area highly vulnerable to such illicit traffic".

(*iii*) The Ordinance also specifically provided that an order of detention under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 cannot be issued on any ground on which an order of detention could be made under the Ordinance.

2. The Bill seeks to replace the aforesaid Ordinance.

AJIT KUMAR PANJA.

NEW DELHI;

The 10*th August,* 1988.