

Drugs and Cosmetics Act, 1940

BRIEF INTRODUCTION

To regulate the import, manufacture, distribution and sale of drugs in British India, in 1937 a Bill was introduced in the Central Legislative Assembly to give effect to the recommendations of the Drugs Enquiry Committee. This Bill was referred to the Select Committee and the Committee expressed the opinion that a more comprehensive measure for the uniform control of manufacture and distribution of drugs as well as of imports was desirable. The Central Government suggested to the Provincial Governments to ask the Provincial Legislatures to pass resolutions empowering the Central Legislature to pass an Act for regulating such matters relating to control of drugs as fall within the Provincial sphere. Provincial Governments got the resolution passed from the Provincial Legislatures and sent them to the Central Government for getting through the Bill to regulate the import, manufacture, distribution and sale of Drugs and Cosmetics. Thereupon the Drugs and Cosmetics Bill was introduced in the Central Legislative Assembly.

STATEMENT OF OBJECTS AND REASONS

To give effect to the recommendations of the Drugs Enquiry Committee, in so far as they relate to matters with which the Central Government is primarily concerned, a Bill to regulate the import of drugs into British India was introduced in the Legislative Assembly in 1937. The Select Committee appointed by the Legislative Assembly was of the opinion that a more comprehensive measure providing for the uniform control of the manufacture and distribution of drugs as well as of import was desirable. The Government of India accordingly asked Provincial Governments to invite the Provincial Legislatures to pass resolutions under section 103 of the Government of India Act, 1935, empowering the Central Legislature to pass an Act for regulating such matters relating to the control of drugs as fall within the Provincial Legislative List. Such resolutions have now been passed by all Provincial Legislatures.

The Bill also establishes a Board of Technical Experts to advise the Central and Provincial Governments on technical matters.

The Bill provides for the control of the import of drugs into British India. The executive power under this chapter will accordingly be exercised by the Central Government.

It also relates to control of the manufacture, sale and distribution of drugs and contains the provisions which it is proposed should be enacted in exercise of the powers conferred by the resolutions under section 103 of the Government of

India Act passed by the Provincial Legislatures. The executive power under the bill will be exercised by the Provincial Government.

The standards to be complied with by imported drugs have been prescribed in the First Schedule and the standards to be complied with the drugs manufactured, sold or distributed in India are prescribed in the Second Schedule. The standards prescribed in the two Schedules are nearly identical. The Central Government will have power to amend the First Schedule, but power to amend the Second Schedule will rest with Provincial Government.

To maintain the uniformity the Government of India have considered to what extent provision can be made to secure the maintenance of uniformity in standards and in other important matters in which uniformity is desirable. They understand that it would be ultra-virus of Central Legislature to assign to any authority other than the Provincial Government's authority conferred by the Bill in respect of matters falling within the Provincial Legislative field. For this reason it is not possible to assign the power to fix standards and to make rules to any single authority. In order to assure that before any action is taken due consideration is given to the desirability of maintaining uniformity, provision has been made in Chapter VI for a single Technical Advisory Board which both Central and Provincial Government will be required to consult before modifying the standards set up by the Bill or before making rules under the Bill.

ACT 23 OF 1940

The Central Legislative Assembly passed the Drugs and Cosmetics Bill which received the assent of the Governor General on 10th April, 1940 and thus became the Drugs and Cosmetics Act, 1940 (23 of 1940).

Numerous modifications were made in the Act from time to time, providing enhanced penalties for heinous crimes, prescribing qualification and experience for the enforcing authorities, updating standards of drugs as well as amending Schedules depending upon change in techniques, research and various other parameters. The Act as on today is the result of pains taken by numerous persons either collective or individually.