

**Prevention Of Adulteration Of Food, Drugs And Cosmetics
(West Bengal Amendment) Act, 1973**

42 of 1973

[29 April 1974]

CONTENTS

1. Short Title
2. Application Of The Act
3. Amendment Of Act 45 Of 1860
4. Amendment Of Schedule Ii To Act 5 Of 1898
5. Amendment Of Act 23 Of 1940
6. Amendment Of Act 37 Of 1954

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An Act to amend the Indian Penal Code, the Code of Criminal Procedure, 1898, the Drugs and Cosmetics Act, 1940 and the Prevention of Food Adulteration Act, 1954, in their application to West Bengal. Whereas it is expedient to amend the Indian Penal Code, the Code of Criminal Procedure, 1898, the Drugs and Cosmetics Act, 1940 and the Prevention of Food Adulteration Act, 1954, in their application to West Bengal, for the purposes and in the manner hereinafter appearing; It is hereby enacted as follows:-

1. Short Title :-

This Act may be called the Prevention of Adulteration of Food, Drugs and Cosmetics (West Bengal Amendment) Act, 1973.

2. Application Of The Act :-

The Indian Penal Code, the Code of Criminal Procedure, 1898, the Drugs and Cosmetics Act, 1940 and the Prevention of Food Adulteration Act, 1954, shall, in their application to West Bengal, be amended in the manner hereinafter provided.

3. Amendment Of Act 45 Of 1860 :-

In the Indian Penal Code,-

(i) in section 272, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life." shall be substituted;

(ii) in section 273, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life." shall be substituted;

(iii) in section 274, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life." shall be substituted;

(iv) in section 275, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life," shall be substituted;

(v) in section 276, for the words "of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life." shall be substituted.

4. Amendment Of Schedule Ii To Act 5 Of 1898 :-

In Schedule II to the Code of Criminal Procedure, 1898, for the

existing entries against sections 272, 273, 274, 275 and 276, the following entries shall be substituted in columns 2, 3, 4, 5, 6, 7 and 8, respectively, namely:-

"Adulterating food or drink intended for sale, so as to make the same noxious.	May arrest without warrant	Warrant.	Not bailable.	Not compoundable.	Imprisonment for life with or without fine.	Court of. Session.
Selling any food or drink as food or drink, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

preparation.						
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5. Amendment Of Act 23 Of 1940 :-

In the Drugs and Cosmetics Act, 1940,-

(i) in sub-section (1) of section 6, after the existing proviso, the following further proviso shall be added, namely:-

"Provided further that the State Government may, with the prior approval of the Central Government, direct that the functions of the Central Drugs Laboratory and the Director may be carried out in West Bengal by such Authority and such officer respectively as may be specified by the State Government by notification in the Official Gazette and any reference in this Act to the Central Drugs Laboratory or the Director shall then be construed to mean such Authority or officer, as the case may be.";

(ii) after section 19, the following section shall be inserted, namely:-

"19A. Burden of proof.-When any drug or cosmetic is seized from any person in the reasonable belief that such drug or cosmetic is misbranded or adulterated, the burden of proving that such drug or cosmetic is not misbranded or adulterated shall be on the person from whose possession such drug or cosmetic was seized.";

(iii) in section 27,-

(a) in clause (a),-

(i) for the words "for a term which shall not be less than one year but which may extend to ten years", the words "for life" shall be substituted;

(ii) in the proviso, for the words "imprisonment of less than one year", the words "less than imprisonment for life" shall be substituted;

(b) in clause (b), for the words "for a term which may extend to three years", the words "for life" shall be substituted;

(iv) in section 27A, for the words "a term which may extend to one year, or with fine which may extend to five hundred rupees," the words "life or with fine" shall be substituted;

(v) in section 30,-

(a) in sub-section (1)-

(i) in clause (a), for the words "ten years", the words "imprisonment for life" shall be substituted;

(ii) in clause (b), for the words "may extend to ten years or with fine, or with both", the words "shall not be less than two years but which may extend to imprisonment for life and shall also be liable

to fine" shall be substituted;

(b) in sub-section (1A), for the words "may extend to two years, or with fine which may extend to one thousand rupees, or with both", the words "shall not be less than two years but which may extend to imprisonment for life and shall also be liable to fine" shall be substituted; (vi) for section 32, the following section shall be substituted, namely:-

"32. Cognizance of offences and arrest without warrant.-

(1) All offences punishable under this Act shall be cognizable and non-bailable.

(2) Any police officer not below the rank of a Sub-Inspector of Police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any of the offences punishable under this Act."

6. Amendment Of Act 37 Of 1954 :-

In the Prevention of Food Adulteration Act, 1954,-

(i) to sub-section (1) of section 4, the following proviso shall be added, namely:-

"Provided that the State Government may, with the prior approval of the Central Government, direct that the functions of the Central Food Laboratory and the Director may be carried out in West Bengal by such Authority and such officer respectively, as may be specified by the State Government by notification in the Official Gazette and any reference in this Act to the Central Food Laboratory or the Director shall then be construed to mean such Authority or officer, as the case may be".;

(ii) in section 16,-

(a) in sub-section (1), for the words "a term which shall not be less than six months but which may extend to six years and with fine which shall not be less than one thousand rupees", the words "life and shall also be liable to fine" shall be substituted;

(b) in the proviso to sub-section (1), for the words "the Court may for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or fine of less than one thousand rupees or of both imprisonment for a term of less than six months and fine of less than one thousand rupees", the following words shall be substituted, namely:-

"(ii) if the Court thinks that for any adequate and special reasons to

be mentioned in the judgment a lesser sentence would serve the ends of justice, the Court may impose a sentence which is less than a sentence of imprisonment for life.";

(iii) in sub-section (1B), for the words "a term of six years and with fine which shall not be less than one thousand rupees", the words "life and shall also be liable to fine" shall be substituted;

(iv) after section 19, the following section shall be inserted, namely:-

"19A. Burden of proof.-When any article, intended for food is seized from any person in the reasonable belief that the same is adulterated or misbranded the burden of proving that such article intended for food is not adulterated or misbranded shall be on the person from whose possession such article intended for food was seized.";

(v) for section 20, the following section shall be substituted, namely:-

"20. Cognizance of offences and arrest without warrant.-

(1) All offences punishable under this Act shall be cognizable and non-bailable.

(2) Any Police officer not below the rank of a Sub-Inspector of Police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any of the offences punishable under this Act.".