



The Bengal Undesirable Advertisements (Control) Act, 1948

Act 29 of 1948

Keyword(s):

Advertisement, Sexual Disorder, Venereal Disease

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West Bengal Act XXIX of 1948¹

THE WEST BENGAL UNDESIRABLE ADVERTISEMENTS (CONTROL) ACT, 1948.

ADAPTED

.. The Adaptation of Laws Order, 1950.

[15th October, 1948.]

An Act to control the publication of advertisements relating to contraceptives and the medical treatment of certain diseases and disorders.

WHEREAS it is expedient to control the publication of advertisements relating to contraceptives and the medical treatment of certain diseases and disorders;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Undesirable Advertisements (Control) Act, 1948.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) It shall come into ²force on such date as the ³[State] Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "advertisement" includes oral advertisement and also includes any notice, sign, announcement, bill, hand-bill, circular, book, newspaper, magazine, periodical, pamphlet, or leaflet, whether pictorial or otherwise;

(2) "prescribed" means prescribed by rules made under this Act;

(3) "sexual disorder" means any ailment, irregularity, affection or diseased condition of the organs of generation;

(4) "venereal disease" means syphilis, gonorrhœa or soft chancre or any sign, symptom or *sequela* of such disease and includes such other venereal diseases as may be prescribed by the ³[State] Government in this behalf.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 18th March, 1948, Part IV, page 297; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly held on the 8th September, 1948.

²This Act came into force on the 15th day of August, 1951, vide notification No. Medl. 4562/V-5/51, dated the 4th August, 1951, published in the *Calcutta Gazette*, of the 9th August, 1951, Part I, page 1989.

³This word within the square brackets was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Sections 3, 4.)

Prohibition
of issue of
certain
advertisements.

3. (1) No person shall by means of any advertisement,—
- (a) prescribe or offer to prescribe any medicine or appliance for use as contraceptive, or
 - (b) offer to treat any person for, or indicate the line of treatment of, any venereal disease, sexual disorder, irregularity of menstruation or any other prescribed disease, infirmity or abnormality or offer to prescribe, any remedy therefor, or give or offer to give any advice in connection with the treatment thereof.

(2) No person shall print or publish, or cause to be printed or published, for distribution or exhibition to the public, or circulate or cause to be circulated or exhibit or cause to be exhibited, to the public or to any person,—

- (a) any advertisement referred to in sub-section (1), or
- (b) any label or set of instructions, whether pictorial or otherwise, to be affixed to or delivered with, any packet, box, bottle or phial,

if such label or set of instructions recommends, assets or infers that any remedy, medicine, medicinal or herbal preparation or any appliance or charm of any kind, whether for use internally or externally, is a contraceptive or is useful or may be used as a contraceptive, or is a cure, or is useful or may be used, for the prevention, treatment or relief of any venereal disease, sexual disorder, irregularity of menstruation or any other prescribed disease, infirmity or abnormality.

Confiscation
of documents, etc.,
containing
advertisement, etc.,
which contravenes
section 3.

4. (1) Any person prescribed under sub-section (2) who may be authorised in writing in this behalf by the Commissioner of Police in Calcutta and the District Magistrate elsewhere may at any time seize and detain any document or any article or thing which such person has reason to believe contains any advertisement which contravenes any of the provisions of section 3, and the Court trying such contravention may direct that such document or such article or thing and all copies thereof shall be forfeited to ¹[Government].

(2) The ²[State] Government shall prescribe the persons or classes of persons who may be authorised under sub-section (1) to take the action provided for under that sub-section.

(3) Where in pursuance of sub-section (1) any document or article or thing has been declared to be forfeited to ¹[Government], any police officer may seize any copy thereof, wherever found, and any Magistrate

¹This word within the square brackets was substituted for the words "His Majesty" by para. 4(1) of the Adaptation of Laws Order, 1950.

²See foot-note 3 on page 87, *ante*.

XXIX of 1948.]

(Sections 5-8.)

may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or article or thing or any copy thereof is or is reasonably suspected to be.

Explanation.—In this section “Calcutta” means the town or Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866.

Ben. Act IV
of 1866.

Ben. Act II
of 1866.

5. Whoever contravenes any of the provisions of section 3 shall, on conviction, be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty.

6. Nothing in this Act shall apply to,—

- (a) any medical treatise or book, or any treatise or book dealing with the subject from a *bona fide* scientific or social standpoint, or
- (b) any advertisement, or any article or thing sent confidentially in the prescribed manner only to a medical practitioner or to a wholesale or retail chemist for the purpose of his business, or
- (c) any advertisement made, printed or published with the previous sanction of such person or persons as the ¹[State] Government may ²appoint in this behalf, or
- (d) any advertisement, label or set of instructions which is permitted under the Drugs Act, 1940, or any rules made thereunder.

Act not to
apply in
certain
cases.

Explanation.—“Medical practitioner” in this section includes a person regularly practising either the allopathic, homœopathic, Ayurvedic, Unani or any other system of medicine.

7. No Magistrate other than a Presidency Magistrate or a Magistrate of the First Class shall try an offence punishable under this Act.

Jurisdiction
to try
offences.

8. Any person empowered to act under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers to
be deemed
public
servants.

XXIII of
1940.

Act XLV
of 1860.

¹See foot-note 3 on page 87, *ante*.

²For notification relating to the appointment of the Secretary to the Government of West Bengal, Medical and Public Health Department, as the person referred to in section 6(c) of the Act, see notification No. Medl. 4563/V-5/57, dated 4.8.51, published in the *Calcutta Gazette* of 1951, Part I, page 1989.

[West Ben. Act XXIX of 1948.]

(Sections 9, 10.)

Indemnity.
2.

9. No suit, prosecution or other legal proceeding shall lie against any servant of the ¹[Government] for anything which is in good faith done or intended to be done under this Act.

Power to
make rules.

10. (1) The ²[State] Government may make rules³ for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the venereal diseases referred to in clause (4) of section 2;
- (b) the diseases, infirmities or abnormalities referred to in section 3;
- (c) the persons and classes of persons referred to in sub-section (2) of section 4;
- (d) the manner of sending confidentially an advertisement, article or thing referred to in clause (b) of section 6.

¹This word within the square brackets was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

²See foot-note 3 on page 87, *ante*.

³For the West Bengal Undesirable Advertisements (Control) Rules, 1951, made under section 10, see notification No. Medl. 4561/V-5/51, dated 4.8.51, published in the *Calcutta Gazette* of 1951, Part I, page 1989.