

Note for Consultation on comments/suggestions to make amendments to National Anti-Doping Act, 2022

AMENDMENT TO NATIONAL ANTI-DOPING ACT, 2022

Chapter VIA: Offences & Penalties

25A. Scope and Applicability

This Chapter shall apply to any person committing, aiding or abetting the activities specified under section 25B, including such activities committed outside India, which if committed in India, would constitute an offence under section 25B.

25B. Provisions relating to offences

- (1) Whoever, for the purpose of or in connection with doping in sport, traffics in, sells, dispenses or otherwise places on the market without trafficking, or makes out a prescription for, any prohibited substance or prohibited method, shall be punishable with imprisonment for a term which may extend to [five] years, or with fine which may extend up to [two lakh] rupees, or both.
- (2) Whoever administers or applies to an athlete, for the purpose of or in connection with doping in sport:
 - (a) a prohibited substance, or
 - (b) a prohibited method,shall be punishable with imprisonment for a term which may extend to [five] years, or with fine which may extend up to [two lakh] rupees, or both.
- (3) Whoever, through an action specified under sub-section (1), or sub-section (2):
 - (a) traffics in, sells, dispenses or otherwise places on the market without trafficking, makes out a prescription or administers or applies a prohibited substance or a prohibited method to an athlete under the age of eighteen, or
 - (b) acts commercially or as a member of an organized crime syndicate for the commission of an act under sub-section (1) or sub-section (2) in respect of any offence under this section,shall be punishable with imprisonment for a term which may extend to [ten] years, or with fine which may extend up to [five lakh] rupees, or both.

Explanation.—For the purposes of this section, the expression “organized crime syndicate” shall have the meaning as provided under the explanation to section 111 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023).

- (4) Whoever places on the market any prohibited substance, without adhering to the labelling requirements as may be prescribed by the Central Government, shall be punishable with imprisonment for a term which may extend to [three] years, or with fine which may extend to [two lakh] rupees, or both.

25C. Exemption from liability

- (1) If a person administers or applies to an athlete a prohibited substance or prohibited method, in respect of which such athlete possesses a valid Therapeutic Use Exemption, the actions of such person shall not constitute an offence under section 25B.
- (2) If a registered medical practitioner, in *bona fide* exercise of his professional responsibility to address any emergency or urgent treatment of a medical condition of an athlete who does not possess a valid Therapeutic Use Exemption, makes out a prescription, or administers or applies any prohibited substance or prohibited method with the consent of such athlete, such medical practitioner shall not be liable for an offence under section 25B.

Explanation.—For the purpose of this section:

- (a) The expression “registered medical practitioner” shall mean a practitioner registered under the provisions of the National Medical Commission Act, 2019 (30 of 2019).
- (b) In situations referred to under this sub-section, it shall be the responsibility of the athlete to apply for a retroactive Therapeutic Use Exemption in accordance with the provisions of this Act and regulations thereunder. There shall be no liability for the relevant medical practitioner, regardless of whether the Therapeutic Use Exemption is granted or declined.
- (3) The provision of section 25B shall not apply to a person acting under terms of a licence under any other law for the time being in force for the purposes of sale of one or more prohibited substances.

25D. Advertisements and paid promotions of prohibited substances or prohibited methods

Whoever engages in advertisements or paid promotion of use of prohibited substances or prohibited methods for the purpose of or in connection with doping in sport, shall be punishable with imprisonment for a term which may extend to [one year], or with fine which may extend up to [one lakh] rupees, or both.

Explanation.—For the purpose of this section:

- (a) “advertisement” shall have the meaning as is assigned to it in the Consumer Protection Act, 2019 (35 of 2019); and
- (b) “paid promotion” means promotion or encouraging use for consideration, including through commission, such as naming or suggestive descriptions of any prohibited substances or prohibited methods.

25E. Offences by companies

- (1) Where an offence under section 25B has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall

be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in section 25B if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where any offence under section 25B has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section:

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

25F. Powers relating to search and seizure

- (1) Any officer authorised by the Central Government in this behalf, may, pursuant to reasons to be recorded in writing, search any individual, building, vehicle, conveyance or place in respect of which there is reason to believe that any offence punishable under this Chapter has been, or is being, committed, and take possession of any prohibited substance thereof, and any article or document which he has reason to believe may furnish evidence of the commission of an offence punishable under this Chapter.
- (2) Any officer authorised by the Central Government in this behalf may seize in any public place or in transit, any prohibited substance in respect of which he has reason to believe an offence punishable under this Chapter has been committed, and along with such prohibited substance, any article or document which he has reason to believe may furnish evidence of the commission of an offence punishable under this Chapter.
- (3) Where an officer is undertaking search of any individual under sub-section (1), the following shall apply:
 - (a) The officer shall, if the individual so requires, take such individual within twenty-four hours to the nearest Gazetted Officer, superior in rank to him, or a Magistrate:

Provided that the officer shall not detain such individual for more than twenty-four hours prior to taking him to such Gazetted Officer or Magistrate:

Provided further that the period of twenty-four hours shall exclude the time necessary for the journey undertaken to take such individual to such Gazetted Officer or Magistrate.
 - (b) The Gazetted Officer or the Magistrate before whom the individual is brought shall allow such search if he sees reasonable grounds for such search, or forthwith discharge such individual if no such reasonable grounds for search exist.

- (c) Any search of the individual shall be undertaken in the presence of two or more individuals who shall be witnesses to the search.
 - (d) No female shall be searched by anyone other than a female.
 - (e) The officer shall record the statement of the individual searched in respect of anything seized in the course of such search.
 - (f) If the officer has reason to believe that it is not possible to take the individual to the nearest Gazetted Officer or Magistrate without the possibility of such individual parting with possession of any prohibited substance, he may, instead of taking that individual to the nearest Gazetted Officer or Magistrate, proceed to search the individual as provided under section 103 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023).
 - (g) Where a search is conducted under clause (f), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to an officer, superior in rank to him.
- (4) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) shall apply, in so far as they are not inconsistent with the provisions of this Chapter, to all searches and seizures made under this Chapter.

Explanation.—For the purposes of this section, the expression “public place” includes any public conveyance, hotel, shop, competition, event or other place intended for use by, or accessible to, the public.

25G. Reporting of information relating to offences

- (1) Any person may voluntarily report to the Agency or an officer undertaking investigation of an offence under this Chapter, information in his possession relating to the offence that has occurred, is occurring or such person has a reasonable belief that it is about to occur.
- (2) Notwithstanding anything contained in any other law for the time being in force, the Agency or the officer undertaking investigation shall maintain confidentiality of the identity and existence of the person reporting under sub-section (1).

25H. Supply of information to authorised officers

Notwithstanding anything contained in any law for the time being in force, where the Agency or the Central Government is satisfied that any information, document or record in possession or control of any athlete, athlete support personnel or other person, relating to doping in sport, is necessary to be furnished in relation to any pending or apprehended proceedings under this Chapter, an officer, specially authorised in writing by the Agency or the Central Government in this behalf, shall direct such athlete, athlete support personnel, or other person to furnish such information, document or record to him and that athlete, athlete support personnel, or other person shall comply with the direction of such officer.

25I. Cognizance of offences

- (1) No prosecution under this Chapter shall be instituted except by the Agency, or any officer of the Central Government or a State Government, authorised in writing by such Government, in this behalf.
- (2) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), all offences specified under this Chapter shall be cognizable and non-bailable.
- (3) No court inferior to that of a Court of Session shall try any offence punishable under this Act.
- (4) The provisions of this Chapter are in addition to and without prejudice to any other liability which a person may incur under this Act or any other law for the time being in force.