



POLICE



DEPARTMENT

KERALA

No.D4-58946/2025/PHQ

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Circular. 8/2025/PHQ

Sub : Seizure or freezing and forfeiture of illegally acquired property under the provisions of NDPS Act, 1985- Guidelines issued -reg.

Ref : The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

The Investigating Officers of NDPS cases must remain diligent while gathering details during searches, seizures, and interrogations of suspects involved in drug trafficking. The identification of illegally acquired properties should be an integral part of these investigation stages, in line with the provisions of Chapter V A of the NDPS Act. However, it is noticed that in some of the cases the importance of tracing and identifying illegally acquired properties has not been fully realized at the ground level during the early stages of investigation. This often results in drug peddlers enjoying the financial benefits of illegally acquired properties. Hence the following guidelines are issued for strict adherence by the investigating officers.

As per section 62 of the NDPS Act, *“Where any narcotic drug, psychotropic substance or controlled substance is sold by a person having knowledge or reason to believe that the drug or substance is liable to confiscation under this Act, the sale proceeds thereof shall also be liable to confiscation”*.

However, the procedure in making confiscation as mentioned in Section 63 of NDPS Act shall be strictly complied.

Under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, the procedure for forfeiture of illegally acquired property is governed by Chapter VA (Sections 68A to 68Z).

The salient sections of NDPS Act that describes the persons whose illegally acquired assets can be seized & forfeited, the competent authority empowered for same and the procedure for forfeiture & release are as follows:

Section 68A:

This section is crucial for forfeiting assets linked to drug-related crimes and preventing indirect possession of illegal wealth through relatives or associates.

As per this section, the Persons whose illegally acquired properties that can be seized or forfeited are;

- Those convicted of offences under the Act with imprisonment of 10 years or more.
- Those convicted of similar offences abroad.
- Those subjected to preventive detention under laws related to illicit drug trafficking.
- Those arrested or issued warrants for offences punishable with 10 years or more of imprisonment under this Act or similar laws in other countries.



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- Relatives of the above persons.
- Associates of the above persons.
- Current holders of property previously held by any such person, unless they acquired it in good faith for adequate consideration.

Section 68C – Prohibition of Holding Illegally Acquired Property

This section ensures that individuals involved in narcotics related crimes cannot retain illegally acquired property. The Government has the power to seize such property, except for assets acquired more than six years before the arrest/detention. This provision aims to prevent drug offenders from benefiting from illicit wealth while ensuring fairness with the six year limitation period.

Section 68D – Competent Authority

This section empowers the Central Government to appoint officials to oversee forfeiture and enforcement under this chapter. The designated authority will have jurisdiction over specific individuals or groups, as determined by the Government. It ensures proper implementation of forfeiture laws related to illegally acquired property from drug related crimes.

1. Designation of Competent Authority
 - The Central Government has the power to appoint a competent authority through an order published in the Official Gazette.
 - The competent authority can be a Commissioner of Customs, a Commissioner of Central Excise, a Commissioner of Income Tax and any other officer of equivalent rank in the Central Government.

Section 68E – Identifying Illegally Acquired Property

This section empowers law enforcement and financial investigation officers to trace illicit assets linked to drug related crimes. It ensures proper documentation before initiating an investigation. It allows examination of financial records, property documents, and other assets. Investigations must follow prescribed guidelines to maintain legal integrity and prevent misuse.

1. Authority to Identify Illegally Acquired Property
 - Officers empowered under Section 53 such as drug law enforcement officers, and officers-in-charge of police stations have the authority to investigate if they receive information suggesting that a person specified under Sec 68A holds illegally acquired property.
 - Before taking action, the officer must record the reasons for initiating an investigation.
2. Methods of Investigation
 - The officer may take all necessary steps to trace and identify illegally acquired property.
 - These steps include:
 - Enquiry or investigation into persons or entities.
 - Surveys related to the suspected property.
 - Examination of places, assets, documents, books of accounts, bank records, or any other financial transactions.
3. Guidelines for Investigation
 - Any enquiry, investigation, or survey must follow the directions or guidelines set by the Competent Authority.

Section 68F – Seizure or Freezing of Illegally Acquired Property



This section empowers officers to take immediate action to prevent illegal property from being hidden or transferred. It allows freezing of assets, if direct seizure is not possible. It ensures supervision by requiring the competent authority's confirmation within 30 days to validate the action.

Authority to Seize or Freeze Property: If an officer conducting an enquiry or investigation under Section 68E has reason to believe that a property is illegally acquired, and there is a risk that the property may be concealed, transferred, or dealt with in a way that would hinder its forfeiture and the officer may order the seizure of the property.

1. **Alternative to Seizure (Freezing the Property): If seizure is not practical, the officer can issue an order preventing the property from being transferred or dealt with, without prior permission from the officer issuing the order, or the Competent Authority. A copy of this order must be served to the concerned person.**
2. **Notification to the Competent Authority: The Competent Authority must be informed within 48 hours of making the seizure or freezing order. A copy of the order must also be sent to the Competent Authority.**
3. **Confirmation Requirement: The seizure/freezing order will be invalid unless it is confirmed by the Competent Authority within 30 days.**

Section 68G – Management of Seized or Forfeited Properties

This section ensures proper supervision and management of properties seized or forfeited due to drug-related offences. The Central Government controls the process through appointed officials of high rank (Joint Secretary or above). The forfeited properties are disposed of following Government directions, preventing misuse or illegal reacquisition.

1. **Appointment of an Administrator: The Central Government has the power to appoint one or more officers (not below the rank of a Joint Secretary) as Administrators through an Official Gazette notification.**
2. **Duties of the Administrator: The Administrator will be responsible for receiving and managing properties that have been Seized under Section 68F, or, Forfeited under Section 68I. Management must follow the prescribed rules and conditions set by the Government.**
3. **Disposal of Forfeited Property: The Administrator must take steps, as directed by the Central Government, to dispose of forfeited properties.**

Section 68H – Notice of Forfeiture of Property

This section ensures due process by allowing individuals to explain the legitimacy of their assets before forfeiture. The Competent Authority must have valid reasons, which must be recorded in writing. The Third-party property holders such as family members or associates must also be notified. The proviso protects certain individuals like those only arrested but not convicted from immediate forfeiture proceedings.

1. **Issuance of Forfeiture Notice: The Competent Authority may issue a notice of forfeiture if it has reason to believe that a person covered under Sec 68A holds illegally acquired property. The belief must be based on the value of the person's properties held directly or indirectly, known sources of income, earnings, or assets, investigation reports under Section 68E or other material, etc. The reasons for believing the property is illegal must be recorded in writing.**
2. **Opportunity to Explain: The notice gives the affected person 30 days to provide sources of income, earnings, or assets that led to the acquisition of the property,**



submit supporting evidence and show cause why the property should not be declared illegally acquired and forfeited to the Central Government.

3. Notice to Persons Holding Property on Behalf of the Accused: If a property is held by another person on behalf of the affected person, a copy of the notice must also be served on that other person.
4. Exception (Proviso): No notice for forfeiture shall be served upon any person referred to in clause (cc) of sub-section (2) of section 68A or relative of a person referred to in that clause or associate of a person referred to in that clause or holder of any property which was at any time previously held by a person referred to in that clause.

Section 68-I – Forfeiture of Property in Certain Cases

This section ensures a fair process before the Government takes over a person's property. It allows ex-parte decisions if the accused does not respond within 30 days. It gives Competent Authority discretion when specific illegal assets are hard to identify. It transfers company shares directly to the Government, overriding corporate laws. It protects certain individuals from automatic forfeiture like those merely arrested but not convicted.

Section 68L – Procedure for Certain Trust Properties

This section prevents misuse of Trusts to hide illegally acquired assets. It extends forfeiture powers to include Trust related properties. It ensures transparency by making Trust founders, contributors, and Trustees accountable. It follows the same legal process as direct property forfeiture under Section 68H.

Section 68M – Certain Transfers to Be Null and Void

This section prevents accused individuals from transferring assets to evade forfeiture. It blocks any mode of transfer - sale, gift, lease, etc.. It ensures that forfeited property remains with the Government, even if, someone else tries to claim it. This section applies to both individual and Trust properties under investigation.

Section 68Z – Release of Property in Certain Cases

This section protects individuals from wrongful asset forfeiture if charges against them do not hold. It ensures fairness by automatically releasing assets when legal proceedings end in favour of the accused. It covers cases of acquittal, withdrawal of charges, or invalidated detention orders.



SHAIK DARVESH SAHEB IPS
State Police Chief

To : All Officers in List "B" & All Unit Heads

Copy : CAs to all Officers in PHQ/Manager, PHQ/ Operation Cell, PIC, PHQ/Stock
To : File/Circular Book



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