

**DIRECTORATE OF FORENSIC SCIENCE LABORATORY
JAMMU & KASHMIR, JAMMU.**

Tel./Fax No. 0191-2435249 (Jmu), 0194-2490528(Sgr) EMAIL: dirfsljk@jkpolice.gov.in

C I R C U L A R

The Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022 provide for dealing with the materials covered under NDPS Act, 1985. As per rule 2 (d), the 'Magistrate' mentioned in Rule '8' is the 'Judicial Magistrate' and not the 'Executive Magistrate' and the same is being followed by almost all the Competent Officers while referring/sending the exhibits/cases to the J&K FSL, Jammu/ Srinagar. However, in some cases it has been observed that instead of the 'Judicial Magistrate' the services of the 'Executive Magistrate' are being availed to prepare the samples which is in violation of the Rules. To have clarity and better understanding, Rule 2(d) and Chapter III of the Rules notified vide G.S.R. 899(E) dated 23rd of December, 2022 issued by the Ministry of Finance (Department of Revenue), GoI, is reproduced below:-

Rule 2 (d). "Magistrate" means the judicial magistrate;

Chapter-III

Sampling:-

“8. Application to Magistrate:- After the seized material under the Act is forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53 of the Act or it is seized by such an officer himself, he shall prepare an inventory of such material in Form-4 and apply to the Magistrate, at the earliest, under sub-section (2) of section 52A of the Act in Form-5.

9. Samples to be drawn in the presence of Magistrate:- After application to the Magistrate under sub-section (2) of section 52A of the Act is made. The Investigating Officer shall ensure that samples of the seized material are drawn in the presence of the Magistrate and the same is certified by the magistrate in accordance with the provisions of the said-sub-section.

10. Drawing the samples:- (1) One sample, in duplicate, shall be drawn from each package and container seized.

(2) When the packages and containers seized together are of identical size and weight bearing identical marking and the contents of each package give identical results on colour test by the drugs identification kit, conclusively indicating that the packages are identical in all respects, the packages and containers may carefully be bunched in

lots of not more than ten packages or containers, and for each such lot of packages and containers, one sample, in duplicate, shall be drawn:

Provided that in the case of ganja, poppy straw and hashish (charas) it may be bunched in lots of not more than forty packages or containers.

(3) In case of drawing sample from a particular lot, it shall be ensured that representative sample in equal quantity is taken from each package or container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

11. Quantity to be drawn for sampling:- (1) Except in cases of opium, ganja and charas (hashish), where a quantity of not less than twenty-four grams shall be drawn for each sample, in all other cases not less than five grams shall be drawn for each sample and the same quantity shall be taken for the duplicate sample.

(2) The seized substances in the packages or containers shall be well mixed to make it homogeneous and representative before the sample, in duplicate, is drawn.

(3) In case where seized quantities is less than that required for sampling, the whole of the seized quantity may be sent.

12. Storage of samples:- (1) Each sample shall be kept in heat-sealed plastic bags or heat resistant glass bottle or apparatus, which shall be kept in a paper envelope, sealed properly and marked as original or duplicate, as the case may be.

(2) The paper envelop shall also bear the respective serial number of the package or container from which the sample had been drawn.

(3) The envelope containing the duplicate sample shall also have reference of the test memo and shall be kept in another envelop, sealed and marked 'Secret-drug sample/Test memo' to be sent to the designated laboratory for chemical analysis.

13. Despatch of sample for testing:- (1) The samples after being certified by the Magistrate shall be sent directly to any one of the jurisdictional laboratories of Central Revenue Control Laboratory, Central Forensic Science Laboratory or State Forensic Science Laboratory, as the case may be, for chemical analysis without any delay.

(2) The samples of seized drugs or substances shall be dispatched to the jurisdictional laboratories under the cover of the Test Memo which shall be prepared in triplicate, in Form-6.

(3) The original and duplicate of the Test Memo shall be sent to the jurisdictional laboratory alongwith the samples and the triplicate shall be retained in the case file of the seizing officer.

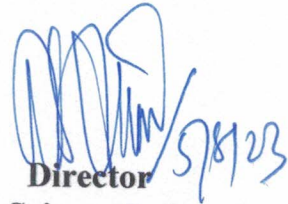
14. Expeditious Test:- The chemical laboratory shall submit its report to the court of Magistrate with a copy to the investigating officer within fifteen days from the date of receipt of the sample.

Provided that where quantitative analysis requires longer time, the results of the qualitative test shall be dispatched to the court of Magistrate with a copy to investigating officer within the said time limit on the original copy of the Test Memo and in the next fifteen days the result of quantitative test shall also be indicated on the duplicate Test Memo and sent to the court of Magistrate with a copy to the investigating officer.

15. Duplicate Sample and Remnants of Samples:- (1) Remnants of samples shall be returned with reference to the Test Memo to the office from which they were received within three months after the analysis by the laboratory.

(2) Immediately after the acceptance of the test report by the court of Magistrate, the duplicate sample held by the Inquiry officer shall be deposited in the godown referred to in rule 5 along with the remnants of the sample”.

It is, therefore, enjoined upon all the competent officers to adhere to the Rules strictly and any sample found volatile of the sampling procedure laid down, will not be allowed for analysis in the J&K FSL Jammu/ Srinagar.



Director

Forensic Science Laboratory,
Srinagar.

No: DFSL/GB/P. Witness/2022/1465-71

Dated:- 05 -08-2023

Copy to the:-

1. Financial Commissioner (ACS) Home Department, Civil Secretariat, J&K, Srinagar for favour of information.
2. Director General of Police, J&K, for favour of information.
3. Special Director General of Police, J&K, CID, J&K, favour of information.
4. Special Director General of Police, J&K, Crime, J&K, favour of information.
5. All District SSPs of Kashmir/ Jammu divisions for information and necessary action action.
6. HoD C&T Division FSL, Srinagar/Jammu for compliance.
7. Office file for records.