

Epidemic Diseases Act, 1897 : Geek Upd8 Bare Acts Collection

Google+

Share!

inShare1

06 November, 2012

An Act to provide for the better prevention of the spread of Dangerous Epidemic Diseases. [4th February, 1897]

Whereas it is expedient to provided for the better prevention of the spread of dangerous epidemic disease; It is hereby enacted as follows :-

LEGISLATIVE HISTORY :

Adapted by A.O., 1937

Adapted by Adaptation of Central Act and Ordinance, 1948

Adapted by Adaptation of Laws Order, 1950

Adapted by Adaptation of Laws Order, 1955

1. Short title and extent.- (1) This Act may be called the Epidemic Diseases Act, 1897.

[(2) It extends to the whole of India except [the territories which, immediately before the 1st November, 1956, were comprised in Part B States].] [* * *]

[(3)]

Object & Reasons :

The object of the Bill is sufficiently explained by the title thereof, and the spread of the bubonic plague from Bombay unfortunately renders it unnecessary to dwell on the reasons for its introduction in Council. It may, however, be stated that its main provisions are based upon those contained in Sections 434 and 473 of the City of Bombay Municipal Act, 1888. - Gazette of India, 1897, Part V, page 21.

2. Power to take special measures and prescribe regulations as to dangerous epidemic diseases.- (1) When at any time the [State Government] is satisfied that [the State] or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the [State Government], if [it] thinks that the ordinary provisions of the law for the time being in force are in sufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as [it] shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the [State Government] may take measures and prescribe regulations for-

(b) the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3)

Object & Reasons:

We have amended Clause 2 by providing that the Governor-General in Council [now, the Provincial Government] must be satisfied that India is visited or threatened with epidemic disease before taking action under the Act.

We have also made it clear that the power to take measures conferred by the clause includes the power of compelling or authorising other persons to take measures. As regards the use of the term 'person' in the Bill it must be read by the light of Section 2(3) of the General Clauses Act, 1868 [now see Section 3(39) of the General Clauses Act, 1897], which provides that 'person' shall include any company or association or body of individuals whether incorporated or not. It is, therefore, clear that the term covers a local authority, whether incorporated or not.

In some cases measures might be required which would cause injury to private property and where it might be right that compensation should be given. We have, therefore, inserted words in the same clause to provide that the Government may determine in what cases and by whom compensation shall be given." - S.O.R.

STATE AMENDMENTS :

Himachal Pradesh :

In its application to Himachal Pradesh, in section 2(2)(b), after the word inspection the sign", "and words "vaccination and inoculation" be inserted. - H.P. Act 15 of 1984, S. 2 (25-7-84).

Madhya Pradesh :

After sub-section (2) of section 2 add the following sub-section, namely "(3) The State Government may, by general or special order, empower a District Magistrate to exercise in relation to the district all its powers under this section, other than the power to determine in what manner and by whom any expenses incurred (including compensation, if any) shall be defrayed. The exercise of powers by a District Magistrate shall be subject to the control of, and to such conditions and limitations as may be specified in the order by, the State Government." - C.P. and Berar Act IV of 1945, Section 2 (16-3-1945), M.P. Act 23 of 1958.

Punjab, Haryana, Chandigarh :

After sub-section (3) of section 2 add the following sub-sections, namely : "(3) The State Government may, by general or special order empower a Deputy Commissioner to exercise in relation to the district all the powers under this section exercisable by the State Government in relation to the State other than the power to determine in what manner and by whom any expense incurred (including compensation if any) shall be defrayed.

(4) The exercise of powers delegated by the State Government shall be subject to such restrictions, limitations and conditions, if any, as may be specified by the Provincial Government and to the control of, and to revision by, the State Government." - Punjab Act III of 1944, S. 2 (18-4-1944), 8 of 1961, C.A. 31 of 1966, S. 68 (1-11-66).

[2A. Power of Central Government.- When the Central Government is satisfied that Indian or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such

disease or the spread thereof, the Central Government may take measures and prescribe regulations for the inspection of any ship or vessel leaving or arriving at any port in [the territories to which this Act extends] and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.]

STATE AMENDMENTS :
Sections 2B to ZF.

Bihar :

After Section 2A the following sections shall be inserted.

"28. Power of State Government to requisition vehicles.- (1) Whenever it appears to the State Government that for the purpose of facilitating preventive or remedial measures, any vehicle is needed or is likely to be needed, for carrying men and equipments to and from any part of the State which is visited by, or threatened with an outbreak of any dangerous epidemic disease, or for carrying any person suffering from any infectious disease it may authorize the District Magistrate or any other officer not below the rank of Deputy Magistrate by a notification in Official Gazette (hereinafter referred to as the "requisitioning authority"), to requisition any such vehicle ordinarily kept in the district by serving an order in writing on the owner of such vehicle, or in his absence, on any other person who has the vehicle under his control. The person on whom such order is served shall deliver possession of the vehicle, so requisitioned to the requisitioning authority or to such other person as may be specified in the order.

(2) If any person in possession of the vehicle on whom an order or requisition is served refuses or fails to deliver possession of the vehicle to the requisitioning authority or to the person specified in the order, such authority or any police officer, not below the rank of an Assistant Sub-Inspector, or the Mukhiya of the Gram Panchayat established under the Bihar Panchayat Raj Act, 1947 (Bih. Act VII of 1948), for the area in which the vehicle is kept. authorised by him, may use such force as is necessary to take possession of the vehicle.

(3) Whenever any vehicle is requisitioned under sub-section (1) the period of such requisition shall not ordinarily extend beyond the period for which the vehicle is required for the purpose mentioned in the sub-section.

Explanation :- For the purposes of Sections 2B, 2C, 2E and 2F-

(i) 'vehicle' means a motor vehicle, horse drawn carriage, ekka, tamtam, rickshaw, cycle-rickshaw, bullock-cart, steamer, steam boat, motor launch and boat: and

(ii) "owner" includes, where the person in possession of the vehicle is a minor, the guardian of such minor, and in relation to a vehicle which is the subject of a hire-purchase agreement, the person in possession of the vehicle under that agreement.

2C. Principles and Method of determining compensation.- (1) Where any vehicle is requisitioned under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set but, that is to say,

(a) where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the State Government shall appoint an officer not below the rank of an Additional District Judge as arbitrator;

(c) the State Government may in any particular case, nominate a person having expert knowledge as to the nature of the vehicle requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceeding before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator in making his award shall take into consideration the loss of earning, if any, sustained by the owner of reason of the requisition, the prevalent market rate of hire for the class of vehicle requisitioned and the condition of the vehicle requisitioned; and

(f) nothing in the Arbitration Act, 1940 (X of 1940), shall apply to arbitrators under this section.

(2) The State Government may by rules prescribe the procedure to be followed in such arbitrations, the principles to be followed in apportioning the costs of the proceedings before the arbitrator and the fees to be paid to experts and assessors appointed under clause (c) of sub-section (1).

2D. Release from requisition.- (1) The State Government or the Requisitioning authority may, at any time, release any vehicle requisitioned under this Act and shall as far as possible, restore the vehicle after proper disinfection, if necessary, in as good a condition as it was when possession thereof was taken, subject only to the changes caused by normal wear and tear and irresistible force :

Provided that where the purpose for which any requisitioned vehicle was being used ceases to exist, the State Government or the requisitioning authority shall release the vehicle, as soon as may be, from requisition.

(2) When any vehicle is to be released from requisition, a notice in writing shall be served on the owner or his authorised agent to take delivery of the vehicle on or within such date and from such place and person as may be specified in the notice and with effect from such date, the State Government or the requisitioning authority shall not in any way be liable for any compensation or other claim in respect of the requisitioned vehicle.

(3) The delivery of possession of the vehicle to the owner or his duly authorised agent shall be a full discharge of all liability of State Government or the requisitioning authority to deliver possession to such person as may have a rightful claim to possession thereof, but shall not prejudice any rights in respect of the vehicle which any other person may be entitled in accordance with law to enforce against the person to whom possession of the vehicle is given.

(4) Where the owner to whom possession of any requisitioned vehicle is to be given is not found and has no agent authorised to take delivery on his behalf, the State Government shall cause a notice declaring that the vehicle is released from requisition to be published in the Official Gazette and on such publication, the requisitioned vehicle shall cease to be subject to requisition on and from the date of such publication and the State Government shall not be liable for compensation or other claim in respect thereof for any period after the said date.

(5) If the owner or his duly authorised agent fails to take delivery of the vehicle on or within the date specified in the notice issued under sub-section (2), the State Government may dispose of the vehicle in the manner laid down in sub-section (6) :

Provided that the State Government may, if it thinks fit, extend the time under the said notice, but it shall not be liable for any compensation in respect of the vehicle for the extended period.

(6) The disposal of the vehicle under sub-section (5) shall be by public auction and at the risk of the owner and sale proceeds shall be made over to the owner after deducting the expenses incurred by the State Government on account of the owner's failure to take delivery of the vehicle within the time allowed.

(7) Where any vehicle requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or other irresistible force, the State Government or the requisitioning authority shall not be liable for the loss occasioned thereby :

Provided that the benefit of this sub-section shall not be available to the State Government where the injury to such vehicle is caused by any wrongful act or default of the State Government or any of its

officers.

2E. Payment of compensation.- The amount of compensation payable under an award made under section 2C shall, subject to any rules made under this Act, be paid to persons entitled thereto in such manner and within such time as may be specified in the award.

2F. Power to make rules.- (1) The State Government may, subject to previous publication, make rules not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule." - Bih. Act 5 of 1961, S. 2 (14-3-1961).

Gujarat :

Section 2B. Same as in Maharashtra- Bom. Act 12 of 1953 : C. A. II of 1960, S. 87(1-5-1966).

Maharashtra :

Section 2B. After Section 2A, insert the following new section.

"2B. The State Government may, by notification in the Official Gazette, direct that the powers exercisable by it under S. 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by the Collectors within their respective jurisdiction."- Bom. Act 12 of 1953. Section 2 (18-4-1953): C.A. 11 of 1960, S. 87 (1-5-1960).

3. Penalty.- Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.

STATE AMENDMENTS :

Himachal Pradesh :

Section 3 be renumbered as sub-sec. (1) and after that section 50 renumbered add as under

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Magistrate trying an offence under sub-section (1), may, if he thinks fit, try any such offence summarily according to the procedure prescribed in Chapter XXI of the said Code". - H.P. Act 15 of 1984, S. 3 (25-7-84).

Punjab, Haryana, Chandigarh :

Renumber existing section as sub-section (1) thereof and after the sub-section so renumbered add the following:

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any Magistrate or Bench of Magistrates trying an offence under sub-section (I) may if he or they think fit to try any such offence summarily according to the procedure prescribed in Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898)." - Punj. Acts 1 of 1947, Section 3 (1-12-1947) and 8 of 1961, Section 4 and Sch. II and C.A. 31 of 1966, Section 88 (28-3-1961).

Uttar Pradesh :

For Section 3 substitute the following namely:

"3. (1) Any person disobeying any regulation or order made under this Act, shall be deemed to have committed an offence punishable under Section 188 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

(2) No Court shall take cognizance of any offence punishable by virtue of sub-section (1), except on a complaint in writing made by a Gazetted Officer authorized in that behalf by the State Government by a notification in the Gazette, anything to the contrary contained in Section 195 of the Code of Criminal Procedure, 1898 notwithstanding." - U.P. Act 5 of 1962, Section 2 (3-7-1962).

4. Protection to persons acting under Act.- No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.