

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/Bill/7/1976

The following Bill passed by the Legislative Assembly of Goa, Daman and Diu and assented to by the Administrator of Goa, Daman and Diu on 3-6-1976 is hereby published for general information.

B. S. Subbanna, Draftsman.

Panaji, 9th June, 1976.

The Goa, Daman and Diu Plant Diseases and Pests Act, 1976

(Act No. 12 of 1976) [3rd June, 1976]

AN

ACT

to prevent the introduction, spread or re-appearance of plant diseases, pests, parasites and noxious weeds.

Whereas it is expedient to make provision for preventing the introduction, spread or re-appearance of plant diseases, pests, parasites and noxious weeds which are or may be destructive to plants, or are likely to contaminate water supply or are obstructive to waterways in the Union territory of Goa, Daman and Diu, and for matters connected therewith;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Goa, Daman and Diu Plant Diseases and Pests Act, 1976.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) “affected area” means any area declared as such under section 3;

(b) “District Magistrate” includes any Gazetted Officer of Government, authorised by the District Magistrate to perform all or any of the functions of the District Magistrate under this Act;

(c) "Government" means the Government of Goa, Daman and Diu;

(d) "Inspecting Officer" means an Inspecting Officer appointed under section 13;

(e) "noxious weed" means any weed declared as such under section 3;

(f) "occupier" means the person having for the time being the right of occupation of any land, water or premises, or his authorised agent or any person in actual occupation of the land, water or premises;

(g) "parasite" means any plant or animal carrying on its existence wholly or in part on any agricultural crop, plant, tree, bush or herb and declared to be a parasite under section 3;

(h) "pest" means any insect, invertebrate animal or vertebrate animal (including any other animal organism and declared to be a pest under section 3);

(i) "plant" includes all horticultural or agricultural crops, trees, bushes, or herbs and also includes the seed, fruit, leaves, trunk, roots, bark or cutting or any part thereof;

(j) "plant disease" means any fungoid, bacterial, virus, vegetable organism, parasitical or other disease, declared to be a plant disease under section 3;

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

(l) "village officer" means Gramsevak of the respective circle or Panchayat Secretary of the respective areas.

3. Power to declare plant diseases, pests, parasites and noxious weeds.— Where it appears to the Government that any disease, pest, parasite or weed in any area is injurious to plants, or is likely to contaminate water supply or is obstructive to waterways, and that it is necessary to make measures to eradicate such disease, pest, parasite or weed, or to prevent its introduction, spread or re-appearance, the Government may, by notification in the Official Gazette, declare the area to be an affected area for such period as may be specified, and with reference to such area also—

(a) declare that such disease, pest, parasite or weed is a plant disease, pest, parasite or noxious weed;

(b) prohibit or restrict the movement or removal of any plant, soil or manure from one place to another;

(c) prohibit the plantation or growing of any plant which is likely to be injurious to other plants; and

(d) direct that such other preventive or remedial measures shall be carried out as the District Magistrate may consider necessary to eradicate, destroy or prevent the introduction, spread or re-appearance of any plant disease, pest, parasite or noxious weed.

4. Power to issue directions.— (1) On or after the issue of a notification under section 3, the District Magistrate may by notice,—

(i) direct every occupier within the affected area to carry out such preventive or remedial measures (including the removal or destruction of plants which are infested or likely to be

infested) as the District Magistrate may specify in the notice, to eradicate, destroy or prevent the introduction, spread or re-appearance of any plant disease, pest, parasite or noxious weeds;

(ii) call upon any male person, not being below the age of eighteen years and residing within the said area, to render such assistance as may be specified in the notice, in carrying out the measures referred to in clause (i), provided that no person—

(a) who is not an occupier shall be called upon to render whole time service for a period exceeding seven days at a time and there shall be an interval of not less than ninety days before any such person is called upon to render whole time service after having already rendered such service; or

(b) who is, by reason of old age, disability or any other reasonable cause, physically incapable of rendering assistance, or who lives at a distance of more than 5 kms. from the place where his presence is required for the purpose of rendering assistance, shall be called upon to render such assistance; and

(iii) specify the area within which and the period during which the measures referred to in clause (i) are to be carried out.

(2) It shall not be necessary to notify every occupier under clause (i) of sub-section (1) or every other person whose assistance is required under clause (ii) of the said sub-section, and a proclamation in this behalf made by beat of drum or other customary mode in the area, village or locality shall be deemed sufficient notice to all affected persons residing in that area, village or locality.

5. Duties of occupier on the issue of notice under section 4.— On the issue of a notice under section 4,—

(i) it shall be the duty of every occupier within the affected area to carry out the preventive or remedial measures specified in such notice; and

(ii) it shall be the duty of every male person to render assistance in such manner as has been specified in the notice.

6. Power of Inspecting Officer to enter upon any land or premises.— Any Inspecting Officer may, after giving reasonable notice to the occupier enter upon any land, water or premises situated in the affected area for the purpose of ascertaining—

(i) whether there is any plant diseases pest, parasite or noxious weed on such land, water or premises;

(ii) whether any prohibition or restriction imposed under clause (b) or clause (c) of section 3 has been complied with;

(iii) whether other preventive or remedial measures specified in clause (i) of sub-section (1) of section 4 have been carried out.

7. Power to carry out measures.— (1) If on inspection of any land, water or premises, an Inspecting Officer finds that any prohibition or restriction imposed under clause (b) or clause (c) of section 3 has not been complied with or that the preventive or remedial measures specified

under clause (i) of sub-section (1) of section 4 have not been carried out as directed, he may, subject to any general or special order of the District Magistrate and without prejudice to any action that may be taken against the defaulter under section 10, carry out the preventive or remedial measures (including the removal or destruction of plants which are infested or are likely to be infested) imposed under clause (b) or clause (c) of section 3 or specified in the notice under clause (i) of sub-section (1) of section 4, as the case may be.

(2) The cost of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall on demand be recoverable from him as an arrear of land revenue.

8. Power to carry out measures in emergent situations.— (1) Notwithstanding anything contained in section 3 to 7, if the Government is satisfied, that plants in any affected area are in danger of being damaged or destroyed by any plant disease, pest parasite or noxious weed prevalent in that area and that it is necessary to take immediate preventive or remedial measures, it may, by notification in the Official Gazette,—

(a) declare that it shall be competent for the District Magistrate or any Inspecting Officer to carry out such preventive or remedial measures in the affected area or any part thereof or to take such other steps (including the removal or destruction of plants which are infested or likely to be infested) as he may deem fit;

(b) direct that every occupier in respect of whose land such preventive or remedial measures or other steps have been taken shall be liable to pay the cost thereof at such rates and within such time as the District Magistrate may by order from time to time determine having regard to the following, namely:—

(i) the charges to be incurred for labour, material or use of equipment; and

(ii) any other charges to be incurred for the purposes aforesaid.

(2) Subject to any general or special order of the Government, any Inspecting Officer may upon the issue of a notification under sub-section (1) enter upon any land or premises within the affected area and carry out such preventive or remedial measures or take such other steps referred to in clause (a) of sub-section (1), as he may deem fit.

(3) The Inspecting Officer shall by order in writing, assess the amount payable by an occupier in respect of the preventive or remedial measures or other steps taken under sub-section (2).

(4) If the occupier fails to pay the amount so assessed within the time fixed under clause (b) of sub-section (1), the amount shall be recoverable from him as an arrear of land revenue.

9. Appeal.— (1) Any occupier aggrieved by an order made under sub-section (2) of section 7 may within thirty days from the date of service of the order prefer an appeal to the District Magistrate or such other authority as the Government may specify in that behalf on the ground that the charges for labour, material or use of implements are unreasonably high.

(2) Any occupier aggrieved by an order made under sub-section (3) of section 8 may within thirty days from the date of service of the order prefer an appeal to the District Magistrate or such other authority as the Government may specify in that behalf on the ground,—

(i) that the assessment of the amount payable has not been made in accordance with the rates fixed by the District Magistrate;

(ii) that the amount assessed includes charges other than the items mentioned in sub-clauses (i) and (ii) of clause (b) of sub-section (1) of section 8; or

(iii) that the charges for labour, material or use of equipment are unreasonably high.

(3) On receipt of an appeal under sub-section (1) or sub-section (2), the District Magistrate or other authority, as the case may be, shall, after making such enquiry as he may deem fit and giving the occupier an opportunity of being heard, pass such order thereon as he may deem fit.

(4) Every order passed under sub-section (3) shall be final and shall not be called in question in any court of law.

10. Contravention of directions issued.— (1) If a person—

(i) acts in contravention of the prohibition of restriction contained in any notification issued under section 3; or

(ii) acts in contravention of the direction contained in a notice issued under sub-section (1) of section 4 or fails to render assistance having been called upon to do so by notice issued under the said sub-section; or

(iii) acts in contravention of the declaration or direction contained in any notification issued under sub-section (1) of section 8; or

(iv) obstructs the entry of any person referred to in section 6 or sub-section (2) of section 8; or

(v) obstructs the carrying out of the preventive or remedial measures, under sub-section (1) of section 7 or sub-section (2) of section 8, shall be deemed to have committed an offence under this Act.

(2) Any person convicted by a Magistrate of an offence specified in sub-section (1) shall be liable to fine not exceeding fifty rupees or in default to simple imprisonment for a period not exceeding ten days.

(3) If any person convicted of an offence specified under sub-section (1) commits a like offence afterwards, he shall on conviction be punishable with fine not exceeding two hundred and fifty rupees or in default simple imprisonment for a term not exceeding one month.

(4) If a person has been convicted under this section for a contravention of the prohibition or restriction contained in the notification issued under section 3, the plant or soil or manure in respect of which such contravention has been committed may also be forfeited to the Government.

11. Cognizance of offences.— No Magistrate shall take cognizance of an offence under this Act except upon a complaint made by an Inspecting Officer.

12. Obligation of village officers to report plant diseases, pests, etc.— All village officers and such other officers as may be prescribed of the village adjoining an affected area shall forthwith report the existence within the village of any plant disease, pest, parasite or noxious

weed of the nature specified in the notification issued under section 3 in respect of the said area, to the District Magistrate who shall, after making such enquiry as he may deem fit, make a further report to the Government.

13. Appointment of Inspecting Officers.— The Government may, by notification in the Official Gazette, appoint Inspecting Officers for such local areas as may be specified in the notification.

14. Bar to suits or other legal proceedings.— No suit, prosecution or other legal proceedings shall lie against the Government or any officer in respect of anything done or intended to be done in good faith under this Act, or for any damage caused by any action taken in good faith in carrying out the provisions of this Act.

15. Delegation of powers.— The Government may, by notification in the Official Gazette, delegate to any Officer or authority all or any of the powers conferred on it under this Act to be exercised subject to such restrictions and conditions as may be specified in the notification.

16. Requisitioning of vehicles.— (1) Where any affected area in which locusts have been declared as pest under section 3, is infested or is in danger of being infested by locusts, the District Magistrate may, with a view to facilitating preventive or remedial measures or other steps against locusts, by orders in writing requisition any vehicle and make such other orders as may appear to him to be necessary or expedient in connection with such requisition.

(2) Every order made under sub-section (1) shall be served on such persons and enforced in such manner as may be prescribed.

(3) Any vehicle requisitioned under this section may be used or dealt with in such manner as may appear to the officer requisitioning the vehicle to be necessary or expedient.

(4) If the owner of the vehicle in respect of which an order of requisition has been made, does not place the vehicle at the disposal of the officer or authority mentioned therein, such officer or authority may, without prejudice to any other action that may be taken under the Act or the Rules, seize the vehicle from any person who for the time being may be in custody of it.

(5) No person shall remove or allow to be removed any part of a vehicle (including tyre, tube or any other accessory) in respect of which an order of requisition has been made or in any way damage it or permit it to be damaged so as to reduce the value or utility of such vehicle.

(6) When any vehicle is requisitioned under this section there shall be paid to the owner such compensation as may be agreed upon between him and the officer requisitioning the vehicle and in the absence of any such agreement, such compensation as the District Magistrate may fix, having due regard for the type and condition of the vehicle at the time of requisition and the loss caused to the owner.

(7) The manner in which the compensation shall be assessed and the manner in which the order or compensation shall be served, the time within which and the persons to whom it shall be paid and the other matters relating thereto shall be such as may be prescribed.

(8) Any person aggrieved by an order fixing compensation under sub-section (6), may appeal against the same to such authority and within such time as may be prescribed.

(9) Any vehicle requisitioned under this section may at any time be released from such requisition by the District Magistrate passing an appropriate order to that effect.

(10) When an order of derequisitioning is made, notice of the same shall be given to the person to whom the vehicle is to be returned and if he cannot be found and has no local agent or other person empowered to accept delivery of the vehicle on his behalf, such notice shall be given by publishing the order in the Official Gazette. After service of the notice personally or by publication as aforesaid, the vehicle specified therein shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claims in respect of any such vehicle for any period after the said date.

17. Power to make rules.— (1) The Government may, after previous publication make rules 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 manner in which any notice or order issued or made under this Act is to be served or the conditions under which every such notice or order shall be deemed to have been served;

(b) the form in which an appeal under sub-section (1) or sub-section (2) of section 9 shall be filed;

(c) the class of officers who are bound to make a report as required under section 12; and

(d) all other matters expressly required or allowed by this Act to be prescribed.

(3) Rules made under this Act may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before Legislative Assembly while it is in session for a total period of thirty 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, the House agrees in making any modification in the rule or the House agrees 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 modification or annulment shall be without prejudice to the validity of anything done under that rule.

Secretariat,
Panaji,
8th June, 1976.

K. C. D. GANGWANI,
Secretary to the Government
of Goa, Daman and Diu,
Law and Judiciary Department.