

President's Act No. 22 of 1968

THE WEST BENGAL AGRICULTURAL PESTS AND DISEASES ACT, 1968.

[6th July, 1968.]

Enacted by the President in the Nineteenth Year of the
Republic of India.

*An Act to provide for the prevention of the introduction, spread or
reappearance of plant diseases, insect pests, plant parasites and
noxious weeds injurious to crops, plants or trees in the State
of West Bengal and for matters connected therewith.*

of 1968. In exercise of the powers conferred by section 3 of the West
Bengal State Legislature (Delegation of Powers) Act, 1968, the
President is pleased to enact as follows :—

1. (1) This Act may be called the West Bengal Agricultural
Pests and Diseases Act, 1968.

Short title,
Extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Govern-
ment may, by notification in the Official Gazette, appoint.

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

Definitions.

(1) "affected area" means any area declared to be an affected
area by notification under section 3;

(2) "Block Development Officer" means the officer appointed
as such by the State Government and includes any
officer authorised by the State Government under
section 12 to perform the functions of the Block
Development Officer under this Act;

(3) "Director of Agriculture" means the officer appointed
by the State Government to hold the office of the
Director of Agriculture of West Bengal and
includes any other officer who for the time being
performs the duties of that office;

(4) "insect pest" means any insect or other invertebrate or
vertebrate animal including any other animal organism
declared to be an insect pest by notification under
section 3;

(5) "land" includes premises and land under water;

(6) "noxious weed" means any weed declared to be a noxious
weed by notification under section 3;

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- (7) "occupier", in relation to any land, means,—
- (a) where the area of such land exceeds five acres, any person in actual occupation of such land or any person having for the time being the right of occupation of such land or his authorised agent and includes a local authority in such actual occupation or having such right of occupation, and
 - (b) where the area of such land does not exceed five acres, the owner of such land or his authorised agent;
- (8) "Principal Agricultural Officer", in relation to any affected area, means the chief officer of the Department of Agriculture and Community Development of the State Government in the district in which such area is situated and includes a District Agricultural Officer, a Project Executive Officer and any other officer appointed by the State Government to perform all or any of the functions of the Principal Agricultural Officer under this Act;
- (9) "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;
- (10) "plant disease" means any fungoid, bacterial virus, parasitical or other disease declared to be a plant disease by notification under section 3;
- (11) "plant parasite" means any plant or animal carrying on its existence wholly or in part on any plant or weed, and declared to be a plant parasite by notification under section 3;
- (12) "prescribed" means prescribed by rules made under this Act;
- (13) "village-level worker" means an officer of the Department of Agriculture and Community Development of the State Government employed to work at the level of a village.

Declara-
tion of
affected
area, plant
disease,
etc., and
power to
take or
direct
remedial
measures.

3. If it appears to the State Government that any disease, pest, parasite or weed is injurious to plants in any area and that it is necessary to take measures to eradicate such disease, pest, parasite or weed or to prevent its introduction, spread or reappearance, it may, by notification published in the Official Gazette,—

- (a) declare such area to be an affected area for the purposes of this Act for such period as may be specified in the notification;
- (b) declare such disease, pest, parasite or weed to be a plant disease, insect pest, plant parasite or noxious weed in respect of such area;

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- (c) prohibit or restrict the movement or removal of any plant, earth, soil or manure from or into such area;
- (d) prohibit the plantation or growing in such area of any plant which is likely to be injurious to other plants;
- (e) direct that such other preventive or remedial measures shall be carried out in such area as the Principal Agricultural Officer may consider necessary to eradicate or prevent the introduction, spread or reappearance of, any plant disease, insect pest, plant parasite or noxious weed.

4. (1) The Principal Agricultural Officer may by publishing a notice in the prescribed form direct every occupier of land within the affected area to carry out such preventive or remedial measures (including removal or destruction of plants which are infested or are likely to be infested) to eradicate or prevent the introduction, spread or reappearance of, any plant disease, insect pest, plant parasite or noxious weed as may be specified in such notice.

Power of Principal Agricultural Officer to direct carrying out preventive or remedial measures.

(2) A notice referred to in sub-section (1) shall be published in the affected area by a proclamation made by beat of drum and in such other manner as the Principal Agricultural Officer may think fit.

(3) It shall be the duty of every occupier of land in the affected area to carry out the preventive or remedial measures specified in the notice published under sub-section (1).

5. The Block Development Officer or an officer authorised by him in this behalf may, after giving the prescribed notice, enter upon any land situated in the affected area at all reasonable hours for the purpose of ascertaining—

Power of Block Development Officer to enter upon any land.

- (a) whether any insect pest, plant disease, plant parasite or noxious weed exists on such land; and
- (b) whether the preventive or remedial measures mentioned in the notice published under sub-section (1) of section 4 have been or are being carried out.

6. (1) If, on inspection of any land, the Block Development Officer or the officer authorised by him under section 5 finds that there is any insect pest, plant disease, plant parasite or noxious weed on such land and that the preventive or remedial measures specified in the notice published under sub-section (1) of section 4 have not been or are not being carried out, the Block Development Officer may, subject to any general or special orders of the State Government, call upon the occupier of such land, by a notice in the prescribed form served in the prescribed manner, to carry out such preventive or remedial measures, within the time specified in such notice.

Notice to occupier to carry out preventive or remedial measures and appeal by occupier.

(2) The occupier may, within seven days of the service upon him of the notice under sub-section (1), prefer an appeal in the prescribed manner to the Principal Agricultural Officer disputing his liability to carry out the preventive or remedial measures referred to in such notice.

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(3) On receipt of an appeal under sub-section (2), the Principal Agricultural Officer may extend the time specified in the notice served under sub-section (1) and shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

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

Power to carry out measures in case of non-compliance with notice under section 6 at the cost of occupier and appeal by occupier.

7. (1) If any occupier, upon whom a notice has been served under sub-section (1) of section 6, does not comply with such notice within the time specified therein or where an appeal has been preferred under sub-section (2) of section 6, does not comply with the order passed on such appeal within the time specified in such order, then, without prejudice to any action that may be taken against such occupier under sub-section (2) of section 11, the Block Development Officer may carry out at the expense of such occupier the preventive or remedial measures specified in such notice or order.

(2) The cost incurred for carrying out any preventive or remedial measures under sub-section (1) shall include charges for the prescribed items only calculated in the prescribed manner and shall be recoverable from the occupier as an arrear of land revenue:

Provided that the charges for the use of implements shall not be included in such cost.

(3) The occupier may, within thirty days from the date of service in the prescribed manner of a notice demanding payment of the cost from him, prefer an appeal in the prescribed manner to the Principal Agricultural Officer on the ground that the cost includes charges other than those prescribed or that the charges for any of the prescribed items are unreasonably high.

(4) On receipt of an appeal under sub-section (3), the Principal Agricultural Officer shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(5) An order passed under sub-section (4) shall be final and shall not be called in question in any court.

Subsidy by State Government.

8. The State Government may grant such subsidy as may be prescribed to an occupier who carries out preventive or remedial measures as directed in a notice published under sub-section (1) of section 4.

Duty of certain officers to report appearance of insect pest, etc., in village adjoining affected area.

9. (1) If in any village adjoining an affected area any insect pest, plant disease, plant parasite or noxious weed specified in the notification under section 3 in respect of such area is found to appear, the village-level worker of such village and such other officers as may be prescribed shall forthwith report the fact to the Block Development Officer.

(2) On receipt of a report under sub-section (1), the Block Development Officer shall, after making such enquiry as he may deem necessary, forward it in the prescribed manner to the State Government with his remarks thereon and the State Government may take such action as it thinks fit.

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10. (1) Where any affected area in respect of which locusts have been declared to be an insect pest under section 3, is infested or is in danger of being infested by locusts, the District Magistrate or any other officer authorised by him in this behalf may, with a view to facilitating preventive or remedial measures or other steps against locusts, by order in writing, requisition any vehicle and make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning.

Power to requisition vehicles in case of locust menace.

(2) Every order made under sub-section (1) shall be served on such persons and 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 this Act or the rules made thereunder, seize the vehicle from any person who for the time being may be in possession 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 thereof 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 determine in the prescribed manner, having due regard to the type and condition of the vehicle at the time of requisition and the loss caused to the owner :

Provided that where immediately before the requisitioning the vehicle was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, or in default of agreement, in such manner as the District Magistrate may decide.

(7) The order determining the compensation shall be served in the prescribed manner and the amount of compensation shall be paid within the prescribed time.

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

(9) The officer requisitioning any vehicle may at any time release the vehicle from requisition and when it is decided to do so, a notice in writing shall be served on the owner thereof in the prescribed manner to take delivery of the vehicle on or before such date and from such place and person as may be specified therein.

(10) When such notice is served, with effect from the date specified in such notice no further liability for compensation or payment of any other kind shall accrue for requisitioning the vehicle:

Provided that the officer requisitioning the vehicle may make such further payment on account of compensation for any material damage done to the vehicle during the period of requisition as may be assessed by the District Magistrate.

(11) The delivery of possession of the vehicle to the owner thereof or his accredited agent shall be a full discharge of any liability of the State Government to deliver possession to such person as may have rightful claim to possession thereof, but shall not prejudice any right in respect of such vehicle which any other person may be entitled by due process of law to enforce against the person to whom possession of the vehicle is so delivered.

(12) If the owner fails to take delivery of the vehicle on or before the specified date the officer who passed the order of release of the vehicle may dispose of the same thereafter in the manner provided in sub-section (13):

Provided that such officer shall be competent to allow the owner such extension of time as he deems proper without any liability for any compensation or other payment for the period of extension.

(13) The disposal of a vehicle under sub-section (12) shall be by public auction and at the risk of the owner and the sale-proceeds thereof shall be made over to the owner after deducting any expenditure incurred by the officer releasing the vehicle from requisition on account of the failure of the owner to take delivery of it on or before the specified date.

Explanation.—In this section, “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

**Offences
and
penalties.**

11. (1) Whoever—

- (a) moves from or into any affected area any plant, earth, soil or manure, or
- (b) plants or grows any plant in such area,

in contravention of the prohibition or restriction made by the notification issued under section 3 in respect of such area shall, on conviction by a Magistrate, be liable to a fine which may extend to fifty rupees or in default of payment of such fine to simple imprisonment for a period not exceeding fifteen days.

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(2) If any occupier—

- (a) fails to comply with a notice given under sub-section (1) of section 6 or with an order passed on appeal under sub-section (3) of section 6, or
- (b) obstructs the carrying out of the preventive or remedial measures under sub-section (1) of section 7,

he shall, on conviction by a Magistrate, be liable to a fine which may extend to fifty rupees or in default of payment of such fine to simple imprisonment for a period not exceeding fifteen days.

(3) Whoever, having been convicted of an offence under sub-section (1) or sub-section (2), is again convicted of an offence under either of those sub-sections shall be liable to a fine which may extend to one hundred rupees or in default of payment of such fine to simple imprisonment for a period not exceeding thirty days.

(4) No prosecution under this Act shall be commenced without the previous sanction of the Principal Agricultural Officer, or after ninety days from the date of the commission of the alleged offence.

12. The State Government may, by notification in the Official Gazette, authorise an officer not below the rank of a member of the Subordinate Agricultural Service, Class I, to perform the functions of the Block Development Officer under this Act in such local area as may be specified in the notification.

Power to authorise officer to perform functions of Block Development Officer.

13. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the State Government for anything in good faith done or intended to be done under this Act or the rules made thereunder or for any damage to any property caused by any action taken in good faith in carrying out the purposes of this Act.

Bar of suits and legal proceedings.

14. The State Government may, by notification in the Official Gazette, delegate any of the powers under this Act, except the power of making rules under section 15, to the Director of Agriculture, subject to such reservations, if any, as may be specified in the notification.

Delegation of powers by the State Government.

15. (1) The State Government may, after previous publication in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(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 form of the notice under sub-section (1) of section 4;
- (b) the notice to be given under section 5;
- (c) the form of the notice under sub-section (1) of section 6 and the manner of its service;
- (d) the manner of preferring an appeal under sub-section (2) of section 6;

- (e) the items to be taken into account in calculating cost under sub-section (2) of section 7 and the manner of calculating such costs;
- (f) the manner of service of notice and the manner of preferring an appeal under sub-section (3) of section 7;
- (g) the subsidy to be granted by the State Government to an occupier under section 8;
- (h) the officers to make report under sub-section (1) of section 9;
- (i) the procedure of forwarding report under sub-section (2) of section 9;
- (j) the manner in which and the persons upon whom the order of requisition to be served under sub-section (2) of section 10;
- (k) the manner of determining compensation under sub-section (6) of section 10;
- (l) the manner of service of the order of compensation and the time within which compensation is to be paid under sub-section (7) of section 10;
- (m) the authority to which and the time within which an appeal may be preferred under sub-section (8) of section 10;
- (n) the manner of service of notice under sub-section (9) of section 10;
- (o) any other matter which has to be, or may be, prescribed.

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Reasons for the enactment

Under rule 124 of the Defence of India Rules, 1962, the Government of West Bengal had promulgated the West Bengal Agricultural Diseases and Pests Order, 1963, providing for measures for the protection of crops against pests and diseases. With the revocation of the Proclamation of Emergency with effect from the 10th January, 1968, the West Bengal Agricultural Diseases and Pests Order, 1963, will cease to operate after the expiry of a period of six months from the revocation of the Proclamation of Emergency. An order similar to the Order referred to above cannot be made under the Essential Commodities Act, 1955 or under any other law.

2. A huge quantity of agricultural produce of the State of West Bengal is wasted due to the ravages of pests, diseases, parasites and noxious weeds and it is necessary, in the present situation, to take all possible measures towards minimising such losses. During its long experience in the implementation of plant protection measures, the Government of West Bengal had to face many problems. With a view to overcome the difficulties in implementation of plant protection measures, it is considered necessary that the State Government should have the power to compel the cultivators in taking up plant protection measures whenever there is a threat to agriculture from pests, diseases, parasites, and noxious weeds. It is accordingly proposed to enact a law providing for the prevention of the introduction, spread or reappearance of plant diseases, insect pests, plant parasites and noxious weeds injurious to crops, plants or trees.

3. The proposed measure seeks to achieve the above object and it, *inter alia*, provides for—

- (a) declaration of an area affected by plant disease or pest or parasite or noxious weeds;
- (b) prohibition or restriction on the movement or removal of any plant, earth, soil or manure from or into such area;
- (c) prohibition on plantation of any plant likely to be injurious to other plants;
- (d) power to direct or compel any occupier of any land in any such area to take preventive or remedial measures in case of any such infection;
- (e) power to carry out such measures at the cost of the occupier in case of his non-compliance.

4. The Committee constituted under the proviso to sub-section (2) of section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968 (6 of 1968) has been consulted before the enactment of this measure as a President's Act.