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GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENT AFFAIRS LEGAL DEPARTMENT

Gujarat Act No. 7 of 1980

The Gujarat Agricultural Pests and Diseases Act, 1980

(As modified upto the 31st May, 2012)

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THE GUJARAT AGRICULTURAL PESTS AND DISEASES ACT, 1980

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GUJARAT ACT NO. 7 OF 1980¹ *

[THE GUJARAT AGRICULTURAL PESTS AND DISEASES
ACT, 1980]

[31st July, 1980]

An Act to amend and consolidate the law relating to the prevention of introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the State of Gujarat.

It is hereby enacted in the Thirty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Agricultural Pests and Diseases Act, 1980.

Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 19th April, 1980.

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

Definitions.

(1) "Assessor" means an Assessor appointed under section 19;

(2) "insect pest" means any pest declared to be an insect pest by a notification under section 3;

(3) "Inspector" means an Inspector appointed under section 19;

(4) "notified area" means any area specified in the notification issued under section 3 in which a declaration made under the said section is in force ;

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

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

(7) "pest" means any insect or other invertebrate animal;

(8) "plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed:

Provided that the State Government may, by notification in the *Official Gazette* direct that the seed of any particular plant shall be included in the definition of plant;

(9) "plant disease" means any fungoid, bacterial or parasitical or other disease declared to be a plant disease by a notification under section 3;

(10) "prescribed" means prescribed by rules made under section 22.

3. (1) Whenever it appears to the State Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance, the State Government may, by notification in the *Official Gazette*,—

Power to declare insect pests, plant diseases and noxious weeds and to direct measures to eradicate or prevent them.

(i) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed;

(ii) specify the local area within which and the period during which such declaration shall remain in force;

(iii) prohibit or restrict the movement or removal of any plant, tree, soil or manure from one place to another within or outside such area;

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and

(iv) direct the carrying out of such preventive or remedial measures including the destruction of any insect pest, plant disease or noxious weed or the planting or destruction of any crops, plants or trees within the period specified in such notification as the State Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance:

Provided that where the State Government is satisfied at the time of issuing such notification or at any time thereafter, that it is necessary to carry out such preventive or remedial measures immediately in any local area, it may in or by such notification direct, such measures to be carried out immediately,—

(a) by itself through its own officers, or

(b) by such persons or institutions including the occupier and in such manner as the State Government may specify in such notification, and

the cost of any measures so carried out —

(i) by the officers shall be payable to the State Government, and

(ii) by the persons or the institutions shall be payable to the persons or as the case may be, the institutions,

by each occupier in the local area to such extent, in such proportion and within such time, as the State Government may, by order determine.

(2) The substance of the notification issued under sub-section (1) shall also be notified by the Collector by beat of drum or other customary mode in such local area.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out within the period specified therein the preventive or remedial measures mentioned in such notification and act in compliance thereof, and it shall also be lawful for the Collector to call upon any male person, not being below the age of 18 years and residing within such notified area, to render such assistance in carrying out such measures, as he may consider necessary:

Provided that no person who is, by reason of old age, physical disability or any other reasonable cause, incapable of rendering assistance or who lives at a distance of more than eight kilometers from the place where his presence is required shall be called upon to render such assistance :

Provided further that for the purposed calling upon any person whose assistance is required, it shall be sufficient to notify such requirement by a proclamation in this behalf made by beat of drum or other customary mode in the locality in which such person is residing.

Power of Inspector to enter upon any land, water or premises.

5. Any Inspector may, after giving notice in such form and manner and before such time as may be prescribed, enter upon any land water or premises situated in a notified area for the purpose of ascertaining—

(i) Whether there is any insect pest, plant disease or noxious weed on such land, water or premises;

(ii) Whether the preventive or remedial measures mentioned in a notification issued under section 3 have been carried out, or anything has been done in contravention of such notification.

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6. If, on inspection of any land, water or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land, water or premises, or that preventive or remedial measures mentioned in a notification issued under section 3 have not been carried out, even though the period specified in such notification has expired or that anything has been done in contravention of such notification, the Inspector may, subject to the general or special orders of the State Government, carry out, at the expense of the occupier of such land, water or premises such preventive or remedial measures or remove any crop planted in contravention of the notification or discontinue the contravention of such notification.
- Power of Inspector to carry out preventive or remedial measures on failure of occupier to do so.
7. (1) The costs of any preventive or remedial measures carried out or any other action taken under the proviso to sub-section (1) of section 3 or section 6 shall be recoverable from the occupier as an arrear of land revenue.
- Recovery of cost from the occupier.
- (2) Any such occupier may, within thirty days from the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that,—
- (i) the costs include charges for items other than the cost of labour, material or use of implements; or
- (ii) the charges for labour or material or use of implements are unreasonably high.
- (3) On receipt of an appeal under sub-section (2), the Collector or other officer, as the case may be, shall after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.
- (4) Every order passed under sub-section (3) shall be final and conclusive and shall not be liable to be called in question in any Court.
8. (1) If, in carrying out any preventive or remedial measures under section 3 or 6, the officer or Government, person, institution or Inspector destroys or causes to be destroyed,—
- Compensation for destruction of trees or plants.
- (a) any tree which is infected with an insect pest or a plant disease, or
- (b) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or
- (c) any plants or tress, which though not infected at the time with an insect pest or a plant disease are, in the opinion of the officer, person, institution or, as the case may be, Inspector, liable to such infection,
- the officer, person, institution or as the case may be, Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and estimate of their value.
- (2) When any tree or plant is destroyed under sub-section (1), the occupier shall be entitled to compensation determined in the manner provided in section 11.
9. If an occupier in carrying out preventive or remedial measures directed to be carried out by the notification issued under section 3 destroys any tree or plant in accordance with such direction he shall be entitled to such compensation as he would have been entitled to under section 8 as if such tree or plant had been destroyed by the officer, person, institution or, as the case may be, Inspector.
- Compensation for trees or plants destroyed by occupier.
10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—
- Procedure for claims for compensation.
- (i) the notice given under sub-section (1) of section 8 if the claim is made under the said section, or
- (ii) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

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Award of Assessor; Appeal,

11. (1) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (2) and after making an inquiry in the prescribed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(2) The amount of compensation shall—

(a) for every destroyed tree of the kind referred to in clause (a) of subsection (1) of section 8, not exceed one-half of the value of the said tree:

(b) for every destroyed plant of the kind referred to in clause (b) of sub-section (1) of section 8, not exceed the three-fifths of its value; and

(c) for every destroyed plant or tree of the kind referred to in clause (c) of sub-section (1) of section 8, be its full value :

Provided that no compensation shall be payable for—

(i) any noxious weed destroyed ;

(ii) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease;

(iii) the destruction of trees and plants infected with any insect pest or plant disease which in opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation— For the purposes of this section. value means the value of a tree or plant at the time of its destruction.

(3) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under the proviso to sub-section (1) of section 3 or under section 6, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(4) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(5) The occupier or the Inspector, as the case may be, may within 30 days from the date of receipt of a copy of the award under sub-section (4) prefer an appeal to the Collector against the award.

(6) On receipt of the appeal under sub-section (5), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(7) Every order passed under sub-section (6) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (1) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the Collector or such other officer as the State Government may appoint in this behalf.

(2) The Collector or such other officer, as the case may be, shall, on receipt of such report and after making such further inquiry as he may deem necessary forward it to the State Government with his remarks thereon.

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13. (1) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by the locusts, the Collector or any officer appointed by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by proclamation published in the manner hereinafter specified :—

Public to assist and to render service in carrying out preventive or remedial measures including destruction of locusts in case of locust menace.

(a) call upon all male persons not below the age of 18 and above the age of 60 years and residing in the notified area to render all possible assistance in carrying out preventive or remedial measures and in the destruction of locusts :

Provided that no person who, on account of physical infirmity is incapable of rendering assistance or who resides at a distance of more than eight kilometers from the place where his assistance is required shall be called upon to render assistance under this clause;

(b) require all or any male persons not below the age of 18 and above the age of 60 years and residing in the notified area to present themselves at such time and at such place and to such authority as may be specified in the proclamation and to render such service and for such time as may be required of them by the authority to whom they have presented themselves in pursuance of such proclamation :

Provided that no person who, by reason of old age, physical infirmity or any other reasonable cause, is incapable of rendering such service shall be called upon to render service under this clause.

(2) When any person is called upon to render assistance under clause (a) of sub-section (1), the Collector or the officer appointed or any officer authorised by the Collector may direct such person to do or not to do any particular thing.

(3) Persons who are called upon to render service under clause (b) of sub-section (1) shall, in consideration of such service, be entitled to such payment as may be prescribed.

(4) A proclamation under sub-section (1) shall be published by the beat of drum in the town or village and by affixing copy thereof in *chawdi*, *chora* or in some other public building or place in the town or village, as the case may be, and the statement in writing by the Collector or officer making the proclamation to the effect that the proclamation was duly published on a specified day, shall be conclusive evidence that the requirements of this section have been complied with and that the proclamation was published on such day.

(5) A proclamation under sub-section (1) shall cease to operate at the expiration of three months from the date of its issue unless, before the expiration of the said period of three months, the State Government by public notice, extends it to a further period not exceeding three months. The provisions of sub-section (4) shall *mutatis mutandis* apply to the publication of such public notice,

14. (1) When any notified area in which locusts have been declared to be an insect pest under section 3 is invaded or is in danger of an invasion by locusts, the Collector or any officer appointed by him in this behalf may, with a view to facilitating preventive or remedial measures against locusts, by order 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. Any vehicle requisitioned under this section may then be used or dealt with in such manner as may appear to be necessary or expedient to the officer requisitioning the vehicle.

Power to requisition vehicles in case of locust menace.

(2) (i) Every order made under sub-section (1) shall,—

(a) if it is an order affecting a corporation or a firm, be served in the manner provided for the service of a summons in rule 2 of Order XXX or rule 3 of Order XXX as the case may be, in the First Schedule of Code of Civil Procedure, 1908;

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(b) if it is an order affecting an individual owner other than a corporation or a firm, be served on the owner—

(i) by personally delivering it to him, or

(ii) by sending it to him by post, or

(iii) where the owner cannot be found, by leaving an authentic copy of the order with some adult male member of the family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain;

(c) if the ownership of the vehicle to be requisitioned is in dispute, be published in the *Official Gazette*.

(ii) Where a question arises whether a person or owner was duly informed of an order made in pursuance of subsection (1) compliance with the requirements of this sub-section shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

(3) If the owner of the vehicle does not, after service of the order in the manner provided in sub-section (2) place the vehicle in possession of the officer or authority mentioned therein, such officer or authority, as the case may be, may seize the vehicle from any person who may for the time being be in possession thereof.

(4) No owner of any vehicle or any person in possession of it shall, after service or publication of an order under this section, remove or allow to be removed any part, tyre, tube or any other accessory or in any way damage the vehicle or permit it to be damaged so as to reduce the usefulness of such vehicle.

(5) 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 such agreement, such compensation as may be determined by the Collector. In determining the amount of compensation, the Collector shall take into consideration the loss caused to the owner by reason of requisition and also the model, make, type, class and condition of the vehicle at the time of requisition :

Provided that the maximum rate of compensation payable to the owner shall not exceed such rate per day as the State Government may by general or special order fix from time to time, having regard to the current rates of hire of such vehicles prevailing in the district during the period of requisition:

Provided further that the order determining the compensation made under this sub-section shall be served in the manner provided in sub-section (2).

(6) 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 in the manner provided in sub-section (2) to take delivery of the vehicle on or before such date and from such place and person as may be specified therein.

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

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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 requisitioning as may be assessed by the Collector.

(8) The delivery of possession of the vehicle to the owner 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.

(9) 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 (10) :

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.

(10) The disposal of a vehicle under sub-section (9) shall be by public auction and at the risk of the owner and the sale proceeds shall be made over to the owner after deducting any expenditure incurred by the officer releasing the vehicle from requisition due to the owner not taking delivery of it on or before the specified date.

(11) The Collector or the officer appointed by him in this behalf, may with a view to requisitioning any vehicle under this section or determining the compensation payable for such requisitioning, by order in writing,-

(a) require any person to furnish to such officer or authority as may be specified in the order such information in his possession relating to the vehicle as may be specified;

(b) direct that the owner or the person in possession of the vehicle shall not without his permission dispose it of or remove it till the expiry of such period as may be specified in the order from the premises or the place in which it is kept.

Explanation. -For the purpose of this section,-

(a) "owner" includes, in relation to a vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under the agreement;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of transport of person or goods upon roads, whether propelled by mechanical power or not.

15. (1) Every order passed under section 14 including any order determining compensation for requisitioning a vehicle shall be appealable to the Collector if it is passed by any officer lower in rank than that of a Collector and to the prescribed authority if it is passed by the Collector.

Appeal against order passed under section 14.

(2) Such appeal shall be presented within thirty days of the date on which the order appealed against was served on the appellant.

(3) Every order passed in such appeal shall be final and shall not be liable to be called in question in any Court.

16. Without prejudice to any powers otherwise conferred by this Act, any person authorised in this behalf by the State Government may enter and inspect any premises or vehicle for the purpose of ascertaining or determining whether, and if so in what manner, any order under section 13 or section 14 should be made or with a view to securing compliance with any order made thereunder.

Special powers of entry and inspection.

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Penalty.

17. (1) Whoever acts in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to fifty rupees or in default to simple imprisonment for a period not exceeding ten days, and for the second or subsequent offence with fine which may extend to one hundred rupees or in default to simple imprisonment for a period not exceeding twenty days.

(2) Whoever commits a breach of the provisions of any rule made under section 22 shall, on conviction, be punishable with fine which may extend to fifty rupees and for the second or subsequent offence with fine which may extend to one hundred rupees.

(3) Whoever without reasonable excuse, fails to render in the manner required any assistance or service which he is required to render or to do anything or to abstain from doing anything which he is required to do or to abstain from doing in pursuance of a proclamation under section 13, shall on conviction, be punishable with fine which may extend to fifty rupees and for the second or subsequent offence with fine which may extend to one hundred rupees

(4) Whoever contravenes any order made under section 14 or does anything in contravention, of the provisions of the said section shall, on conviction, be punishable with fine which may extend to five hundred rupees and for the second or subsequent offence with fine which may extend to one thousand rupees.

(5) Whoever voluntarily obstructs or offers any resistance to or impedes or otherwise interferes with—

(a) any officer or person exercising any powers or performing any duties conferred or imposed on him by or in pursuance of the provisions of this Act or otherwise discharging any lawful functions in connection with preventive or remedial measures taken or to be taken against locusts under the provisions of this Act, or any proclamations, orders or directions made or given thereunder, or

(b) any person who is carrying out the orders or directions of any such officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of this Act or any proclamations, orders or directions made or given thereunder,

shall on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both and for the second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both

Special procedure regarding trial of certain offences.

18. Offences under section 17 shall be tried in accordance with the provisions contained in sections 262 to 265 of the Code of Criminal Procedure, 1973.

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Appointment of Inspector and Assessors.

19. The State Government may, by notification in the *Official Gazette* appoint such persons as it deems fit to be Inspectors and Assessors for such local areas as may be specified in such notification.

Bar of suit or other legal proceedings.

20. (1) No suit, prosecution or other legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under or in pursuance of this Act, or for any damage caused by any action taken in good faith in carrying out the provisions of this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

Delegation of power.

21. The State Government may, by order direct that any power (except the power to make rules under section 22) exercisable by it under this Act shall be exercisable by such officers subordinate to the State Government and subject to such conditions, it any, as may be specified in the order.

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22. (1) The State Government may, by notification 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 powers, such rules may be made to provide for all or any of the following matters, namely :-
- (i) the form and manner in which, and the time within which, notice under section 5 shall be given;
 - (ii) the manner of making an inquiry under sub-section (7) of section 11;
 - (iii) payment to which persons referred to in sub-section (3) of section 13 shall be entitled;
 - (iv) the authority to which an appeal against an order passed by the Collector shall be made under sub-section (1) of section 15;
 - (v) any other matter which is to be or may be prescribed, by rules under this Act,
- (3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.
- (4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.
- (5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

23. (1) On the commencement of this Act,- Repeal and savings.
- (a) the Bombay Agricultural Pests and Diseases Act, 1947, and
 - (b) the Gujarat Agricultural Pests and Diseases Ordinance, 1980, shall stand repealed :

Provided that anything done or any action taken under the provisions of the Act so repealed shall, so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been done or taken under the corresponding provisions of this Act unless and until it is superseded by any-thing done or any action taken under the provisions of this Act.

- (2) Notwithstanding the repeal of the said Ordinance, any-thing done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.

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Guj. Ord 5 of 1980

¹ For Statement of Objects and Reasons, See Gujarat Government Gazette, Extraordinary, Part-V, dated the 18th June, 1980, pp. 7-13 to 7-14 .

* This Act was assented to by the President on the 30th July, 1980.