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*** THE ASSAM AGRICULTURAL PESTS AND
DISEASES ACT, 1950
(Assam Act XXXV of 1950)**

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*Adapted by Meghalaya.

+Published in the Assam Gazette, dated 20th December, 1950.

+In Manipur, "Manipur Plant Diseases and Pests Act, 1966" is applicable, which is printed in alphabet "P". Injurious to health or to crops, plants, trees or water supply or obstructive to waterways within the State of Assam

Preamble

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An Act to provide for the prevention of the spread of insect pests, plant diseases and noxious weeds in the State of Assam

Preamble.

Whereas it is expedient to provide for measures for the prevention of the spread of insect pests, plant diseases and noxious weeds:

It is hereby enacted as follows:

PART I

Preliminary

1. Short title, extent and commencement.

- (1) This Act may be called "The Assam Agricultural Pests and Diseases Act, 1950".
- (2) It extends to the whole of Assam.

- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in this behalf.

2. Definitions.

In this Act, unless there is anything repugnant in the subject or context-

- (1) "Crop" means any agricultural produce whether stored for consumption or standing and includes seed, plant or any other part thereof;
- (2) "Director of Agriculture" means an officer appointed by the State Government to be the Director of Agriculture and includes every person who for the time being performs the duty of the officer;
- (3) "Insect pest" means any insect or other invertebrate animal and shall include bacteria and other vegetable or animal organisms, which has been declared under notification by S. 3 of this Act to be insect pests:
- (4) "Inspecting Officer" means the Officer appointed as such under S. 20 of the Act;
- (5) "Noxious weed" means any weed which has been declared by notification under S. 3 of this Act to be noxious weed;

- (6) "Notified area" means the area covered by notification published under S. 3;
- (7) "Occupier" means the person in actual occupation of any land, premises or water or the person having for the time being the right of occupation of the land, premises or water, or his authorised agent and includes a local authority or a railway or other company having such right of occupation or any such actual occupation;
- (8) "Plant disease" means any fungoid, bacterial, parasitical or other disease which has been declared by notification under S. 3 of this Act to be a plant disease;
- (9) "Plant" includes the fruit, leaf, bark, roots, cutting or any living portion of a plant; but does not include the seed unless the seed has been especially included in the definition of plant by the State government by notification under this Act;
- (10) "Prescribed" means prescribed by notification or rule made under this Act;
- (11) "Valuing Officer" means officer appointed as such for the purposes of this Act.

PART II

3. Notification of state Government of areas affected by insect pests, plant diseases or noxious weeds.

(1) If the State Government consider that any pests, disease or weed in any local area is injurious to health, crops, plants trees or water supply or is obstructive to waterways and that it is necessary to take measures to eradicate it or to prevent its spread, introduction or re-appearance, it may, by notification in the official Gazette-

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

(b) prohibit or restrict the removal of any plant or crop from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest disease or weed; and

(c) define the local area within which and the period during which such notification shall be in force.

(2) Where the remedial or preventive measures prescribed in sub-S. (1) Include the removal or destruction of any plant or crop in order to eradicate or prevent its

spread, the introduction or re-appearance of any insect pest, plant disease or noxious weed, such notification shall, prior to the date on which the notification shall come into force, be proclaimed in the local area defined in the notification in such manner as may be prescribed.

COMMENTS

Wherever the State Government considers that-

- (a) any pest,
- (b) disease, or
- (c) weed-

is injurious to -

- (i) health,
- (ii) crops,
- (iii) plants,
- (iv) trees, or
- (v) water supply,

or is obstructive to-

- (i) water ways

and that-

- (i) it is necessary to take measures to eradicate it,
or
- (ii) to prevent its spread, introduction or re-
appearance-

then the State Government may-

- (a) declare that such pest, disease or weed is an-
 - (i) insect pest,
 - (ii) a plant disease,
 - (iii) or a noxious weed,
- (b) prohibit or restrict the removal of any plant or crop
from one place to another; or
- (c) prescribe such other preventive or remedial measures
as may be necessary, and

- (d) define the local area and the period during which such notification shall remain force.

4. Liability on the occupiers.

On the issue of a notification under S. 3 every occupier in the notified area shall be bound to carry out the remedial and preventive measures prescribed in such notification.

Explanation.

For the purpose only of this section, Government shall be deemed to be the occupier in the case of all lands, premises or water, which they have for the time being the right to occupy or are in their actual occupation.

COMMENTS

The notification issued under S. 3 shall be binding on every occupier in the notified area and such occupier shall be bound to carry out the remedial and preventive measures as prescribed therein.

5. Power of entry.

Any Inspecting Officer may, with prescribed notice, enter into any premises, land or water within the notified area and take such action as may be necessary in order to ascertain-

- (a) whether any insect pest, plant disease or noxious weed, is there present; and
- (b) whether the prescribed remedial or preventive measures or both as the case may require, have been taken.

COMMENTS

Under this section any Inspecting Officer is empowered to enter into any premises, land or water and taken such actions as may be necessary to ascertain whether any insect pest, plant disease or noxious weed is there and whether the prescribed remedial or preventive measures or both, have been taken.

6. Inspecting Officer may serve a notice on occupier to taken remedial or preventive action.

- (1) If any Inspecting Officer finds that any prescribed remedial or preventive measures have not been properly carried out, he may, subject to such rules as the State Government may prescribed under S.22, call upon the occupier by notice in writing to carry out the prescribed remedial or preventive measures within a time to be specified in such notice.

- (2) The occupier within seven days of the service upon him of such notice prefer an appeal to the prescribed officer who may make such order as he thinks fit. The decision on such appeal shall be final.
- (3) The Officer receiving the appeal may extend the time specified in the notice under sub-S. (1)

COMMENTS

Under this section if the Inspecting Officer finds that any prescribed remedial or preventive measures have not been carried out then he may call upon the occupier to carry out such measures within a specified time. Such an order of the Inspecting Officer is appealable and such appeal shall lie to the prescribed officer, whose decision thereon shall be final.

7. Occupier failing to comply with the notice served on him commits an offence.

If any occupier on whom a notice has been served under S. 6 fails to comply with the notice within the time specified by the Inspecting Officer, or in case where no appeal has been preferred to the prescribed Officer on appeal, he shall be deemed to have committed an offence under this Act, and the prescribed remedial or preventive measures may be carried out by the Inspecting Officer or under his supervision.

COMMENTS

The occupier on whom a notice has been served under S. 6, shall be deemed to have committed an offence if he fails to comply with such notice, or in case there is no appeal, is preferred against such order of the Inspecting officer under S. 6.

8. Recovery from the occupier of the cost of preventive or remedial measures carried out by the Inspecting Officer.

(1) If any prescribed remedial or preventive measures are carried out by the Inspecting officer under S. 7, the cost of such measures shall be recoverable from the occupier as if it were an arrear of land revenue, but such occupier may appeal to the Deputy commissioner within thirty days from the date of demand on the ground that-

(a) charges for items other than costs of labour, materials or use of implements have been included, or

(b) the charges for labour, materials or use of implements are unduly high.

(2) The order of the Deputy commissioner on such appeal shall be final.

COMMENTS

If the Inspecting Officer carries out the remedial or preventive measures under S. 7, the costs thereof shall be recoverable from occupier and against such order an appeal shall lie to the deputy Commissioner, on the grounds mentioned in this section.

9. Destruction of trees or plants in execution of remedial or preventive measures and compensation.

- (1) If in carrying out any prescribed remedial or preventive measures under S.6, the Inspecting Officer destroys or causes to be destroyed-
 - (a) any tree which is infected with the insect pest or plant disease, or
 - (b) any plants, not being trees, some or all of which are affected by the insect pest or plant disease but which are grown so closely together, that it is not ordinarily practicable to treat each plant individually, or
 - (c) any plants including trees which though not so infected have in his opinion liable to such infection;

(d) any crop which is infected with insect pest:

he shall serve a notice in writing on the occupier stating particulars of the trees, crop and plants destroyed and his estimate of their value.

(2) When any trees or plant or crops are destroyed as aforesaid, the occupier shall not be entitled to any compensation except in the case of any plant destroyed under Cl. (c) of Sub-S. (1) where the full value of such plants shall be paid.

(3) For the purpose of this section "value" shall mean the value of the tree or plant at the time of its destruction.

COMMENTS

In execution of remedial or preventive measures, if any destruction is caused to trees or plants no compensation shall be payable to the occupier except when any plants including trees have been destroyed which are not so infected but in the opinion of such Officer are liable to such infection.

Sections 16 and 17 hereinafter may also be seen in this connection.

10. Claim of compensation how and when to be made.

All claims for compensation under S. 9 shall be made in writing to the valuing officer appointed by the State Government within one month from the service of the notice mentioned in sub-S. (1) of S. 9.

11. Award of compensation.

(1) The valuing officer after making such enquiry and taking such evidence as he may consider necessary shall award compensation not exceeding the rates prescribed in S. 9 and transmit or cause to be transmitted copies of his award in writing to the occupier and to the Inspecting officer.

(2) The date within which and the officer before whom an appeal may be preferred shall be entered in the award.

12. Appeal against award.

Either the occupier or the Inspecting Officer may within thirty days of the date of receipt of the award prefer an appeal against such award to the prescribed officer whose decision shall be final.

13. Obligation of village officers to report on insect pest, plant diseases or noxious weeds.

Village Officers of villages adjoining a modified area within whose village limits pest disease or weeds similar to the insect pest, plant disease or noxious weeds within the notified area shall appear, shall report the same to the Deputy commissioner or Sub-divisional Officer and the Director of Agriculture.

COMMENTS

This section makes the village officers of villages legally bound to report to the authorities concerned on insect pest, plant diseases or noxious weeds.

14. Punishment for offence under S. 7.

Anyone convicted by a magistrate of an offence under S. 7 of this Act shall be liable to fine not exceeding Rs. 50 or in default, to simple imprisonment for a period not exceeding ten days.

COMMENTS

Under this section, an offence committed under S. 7 of the Act is punishable.

15. Contravening notification under S. 3 (b) to be an offence; and punishment therefor.

If any person contravenes a notification under S. 3 (b) of this Act prohibiting or restricting the removal of any plant or crop from one place to another he shall be deemed to have committed an offence under this Act. Anyone convicted by a magistrate of such an offence shall in addition to confiscation and destruction of the plant and crop in respect of which the offence was committed, be liable to a fine not exceeding Rs. 50 or in default to simple imprisonment for a period not exceeding ten days.

COMMENTS

Contravention of notification under S. 3 (b) is also punishable under this section.

PART III

Miscellaneous

16. Compensation to occupier for trees and plants destroyed.

Where an occupier destroys any trees or plants or crops in obedience to a notice issued under S. 6 he may be granted compensation in accordance with such rules as may be made under this Act.

17. Compensation not payable for noxious weeds destroyed.

Notwithstanding anything in this Act, no compensation shall be payable for any noxious weeds destroyed.

18. Protection of action taken under the Act.

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done or for damage to property caused by any action which is in good faith taken or intended to be taken in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

19. Institution of prosecution or other legal proceedings under this Act.

(1) No prosecution under this Act shall be commenced except with the previous sanction of the Director of Agriculture.

(2) No prosecution under this Act shall be commenced after six months from the date of the alleged offence.

20. Appointment of Inspecting officers.

The State Government may, from time to time, appoint Inspecting Officers for the purposes of this Act.

21. Delegation of powers.

The State Government may, by notification in the official Gazette, delegate all or any of their powers under this Act except those conferred by Ss. 3 and 22 to the Director of Agriculture or any other officer appointed by Government.

PART IV

Power to make rules.

22. Power of Government to make rules.

- (1) The State Government may, subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing provision, such rules may prescribe-
 - (a) the methods of publication of descriptions of insect pest, plant diseases, and noxious weeds and the treatment to be followed;
 - (b) the qualifications required for Inspecting Officers;
 - (c) the procedure to be followed in making an award under S. 12 and the methods and conditions of valuation of trees, plants and crops;
 - (d) the officers to which appeals may be made and the procedure to be followed in respect of such appeal;

- (e) the procedure, notices and methods of service thereof, notifications, registers and other processes needed for effectual working of this Act;
- (f) inclusion of seed within the definition of a plant;
- (g) the procedure for payment of compensation under S. 16 and for the matters connected therewith;
- (h) the methods generally to carry out the purposes of this Act.

Adapted by Meghalaya

The Assam Agricultural Pests and Diseases Act, 1950, has been adapted by Meghalaya, vide The Meghalaya Adaptation of Laws Order (No.1), 1974, whereby sub-Ss. (2) and (3) in S. 1 of the Assam Act have been omitted.
