



REVIEW DOCUMENT
THE EPIDEMICS DISEASES ACT, 1897

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The Epidemic Diseases Act, 1897¹

Short Title: The Epidemic Diseases Act, 1897

Long Title: An Act to provide for the better prevention of the spread of Dangerous Epidemic Diseases.

Ministry: Ministry of Health and Family Welfare

Enforcement Date: 04-02-1897

Objective of the Act–

The act was enacted by the British government to empower the state governments/UTs to take special measures and formulate regulations for containing the outbreak of an epidemic. It further empowers the state to prescribe such temporary regulations/ restrictions to be observed by the public or by any person or class of persons as it shall deem necessary to curb the outbreak of such disease or the spread thereof. Disobeying any regulation or order made under the Act is a penal offence. The violator is punishable under section 188 of the Indian Penal Code.

The colonial government introduced the Act to tackle the epidemic of bubonic plague that had spread in the erstwhile Bombay Presidency in the 1890s on the orders of Queen Victoria. Using powers conferred by the Act, colonies authorities would search suspected plague cases in homes and among passengers, with forcible segregations, evacuations, and demolitions of infected places. The act has been used on various instances, such as- In 2018, the district collector of Gujarat's Vadodara issued a notification under the Act declaring the Khedkarmsiya village in Waghodia taluka as cholera-affected after 31 persons complained of symptoms of the disease. In 2015, to deal with malaria and dengue in Chandigarh, the Act was implemented and controlling officers were instructed to ensure the issuance of notices and challans of Rs 500 to offenders.² In March 2020 owing to the spread of Novel Coronavirus, the act is being enforced in India to curb its effect.

Provisions of the act-

The act is divided into **4 sections-**

¹<http://legislative.gov.in/sites/default/files/A1897-03.pdf>

²<https://indianexpress.com/article/explained/explained-what-is-the-epidemic-act-of-1897-govt-has-invoked-to-fight-coronavirus-6309925/> accessed on August 28, 2020 at 5:10 pm

1. **Sections 1** explains the extent of applicability of the Act. During the British period it only extended to a few territories and not whole of India. With the passing of Ordinance by the President on April 22, 2020 the words “except the territories which, immediately before the 1st November, 1956, were comprised in Part B states” shall be omitted. Meaning that the Act now extends to whole of India uniformly.
2. **Section 2** authorizes the State Government to 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 in case of an outbreak of a dangerous epidemic disease in the State. It may also prescribe regulations for examination 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. **Section 2A** empowers the central government to take measures and prescribe the regulations for the inspection of any ship or vessel leaving or arriving at any port and the detention of any person intending to sail therein or arriving thereby.
4. **Section 3** says that 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. Section 188 of the IPC provides for a punishment of either 1 month or fine of rupees 200 or both on any person who disobeys any order passed under the act, and a punishment of 6 months or fine of rupees 1000 or both if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray.
5. **Section 4** provides for legal protection to any person who has done anything in good faith under the provisions of this act.

Ordinance- Epidemic Diseases (Amendment) Ordinances, 2020

In exercise of the powers conferred by Article 123 (1) of the Indian Constitution, the present can pass an ordinance when the parliament is not in session and the president is satisfied that circumstances exist which render it necessary for him to take immediate action. It was brought out in response to a Public Interest Litigation filed by a doctor from Nagpur, Maharashtra. The PIL demanded the availability of Personal Protective Equipment (PPEs) for the medical professionals. Also, it brought to light the plight of doctors and nurses due to increasing instances of violence against them during these challenging times of COVID-19. Such a situation tends to hamper the medical community from performing their duties to their optimum best and maintaining their morale, which is a critical need in this hour of national health crisis.³ The aim of this ordinance is to amend the act, adding provisions to punish those attacking doctors or

³<https://lawinsider.in/from-inception-to-amendment-epidemic-disease-act-1897/> accessed on August 28, 2020 at 6:15 pm

health workers. The ordinance allows for up to seven years of jail for attacking doctors or health workers (including ASHA workers). The offense will be cognizable and non-bailable among other things. In addition to this, such cases need to be investigated in a time-bound and must be resolved in 1 year. Also, the law specifies that the guilty will have to pay twice the market value of the damaged property as compensation for damaging the assets of health care staff including vehicles and clinics.

- **Insertion of Section 1A-**

This section attempts to make any act of violence, harassment, harm, injury, hurt, intimidation or danger to the life of a health professional, causing obstruction and hindrance in his discharge of duties, or loss of any property or document in custody of or in relation to any health professional a punishable offence. This section defines three things – act of violence, health care service personnel and property.

- **Change in Section 2A-**

For the portion starting with the words- the Central Government may take measures, as it deems fit and prescribe regulations for the inspection of any bus or train or ship or vessel or aircraft leaving or arriving at any land port or port or aerodrome, as the case may be, in the territories to which this act extends and such detention thereof, or of any person intending to travel therein, or arriving thereby as may be necessary.

- **Insertion of Section 2B-**

Section 2B is inserted with the aim to prohibit violence against health care service personnel and damage to property. It says that no person shall indulge in violence against health care personnel or a damage to his property.

- **Insertion of Sub-section to Section 3-**

Subsection 2 is inserted which says whoever abets the commission of act of violence against health care personnel or whoever abets the commission of damage to property shall be imprisoned which shall not be less than three months and not exceeding five years and with fine which shall not be less than five hundred rupees and may extend up to two lakh rupees. Sub-Section 3 states that, in case of causing grievous hurt, imprisonment shall be for a term six months to seven years and with fine of Rs. One lakh to Rs. five lakh.

- **Insertion of Section 3A-**

Section 3A makes the offences mentioned in Section 3 as cognizable and non-bailable, the case has to be investigated by a police officer not below the rank of an Inspector. Also, it is mandatory that investigation shall be completed within a period of 30 days from the date of recording the FIR.

- **Insertion of Section 3B-**

This provision provides for provision of compounding offences committed under section 3(2) of the Act but with the prior permission of the court.

- **Insertion of Section 3C-**

If a person commits the offence under Section 3 (3), there is presumption that such person has committed the offence alleged against him, unless the contrary is proved.

- **Insertion of Section 3D-**

It is to be presumed that the person committing an offence under Section 3 (3) that the accused had a state of mental element, but the defense shall be available to the accused to prove that he had no such mental state with respect to the Act charged as an offence in the prosecution.

- **Insertion of Section 3E-**

This section makes it mandatory for the person held liable under this Act to pay compensation, as determined by the Court.

Criticism-

The Epidemics Act, 1897 though after the ordinance of 2020, it certainly has some more limitations that make this 150 year old legislation incapable for 21st century health emergencies.. Starting with the objective of the act which is to prevent spread of dangerous epidemic diseases, it miserably fails to provide a definite scope of the word ‘epidemic diseases’. The ambiguous language used in providing power to Central as well as State governments opens the doors for misuse of the indefinite control.

Even after the amendment, an act to fight a pandemic lacks a detailed follow up steps not only for the authorities but also the citizens. It is agreed upon by the National Disaster Management Authority that the act is inadequate to deal with the international spread of diseases. Moreover, the act doesn’t cover all the phases required in dealing with an epidemic namely response and recovery from an epidemic. When the legislations are completely devoid of the rights based approach, it gives unguarded control to the authorities and it eventually leads to encroachment of the fundamental rights of the citizens. A balance between security and rights has to be maintained.

Conclusion-

According to **Will Durant-** “Health of a Nation is more Important than wealth of a Nation”. More stringent and pragmatic approach is required to cater to the health emergency of a Nation. A strong follow up plan is also necessary. In Country like India with 130 Crore population there is a dire need for a basic legislation on tackling a pandemic like health emergency that is comprehensive and cuts across sectors. A situation like health emergency requires a multi-disciplinary and multi-agency approach. It requires coordination among Union, state and local governments on one hand and several government departments and agencies on the other hand.

ABOUT THE AUTHOR



I'm Shivika Goyal from University Institute of Legal Studies Panjab University Chandigarh. I'm a keen observer, a quick learner and an ardent reader. I am glad to have worked under legaleagle law forum. The Bare Act Review Internship program helped me in doing a lot of research, I studied the bare acts carefully, observed its drafting, learnt the merits and launces in each bare act. The experience was quite an enriching and the journey learning experience with this will be cherished forever.