

## **DESTRUCTIVE INSECTS AND PESTS ACT, 1914**

**2 of 1914**

**[3rd February, 1914]**

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"The Bill is the outcome of representations made by the Bombay Chamber of Commerce in 1906, and it has been prepared after consultation with experts and with a considerable number of bodies and persons interested in gardening and agriculture. It gives power to Government to control the importation into British India of articles likely to cause infection to crops, and is based partly on the corresponding English Acts of 1877 and 1907. and partly on the provisions of Livestock Imporation Act, 1898. 2. Action under the Bill would be taken in respect of certain crops only and would assume various forms according to the crop or the class of infection concerned. In some cases, for instance, importation would be prohibited except at certain ports, and then after fumigation. In others, importation would have to be accompanied by certificates of freedom from disease; while in other, importation would be allowed

under a licence from the Agricultural Department."-Gazette of India. 1913, Pt. V, p. 166. Act 12 of 1992.- The Destructive Insects and Pests Act, 1914 was enacted to prevent the import and transport of any insect, fungus or other pests which may be destructive to crops. Section 3 of the said Act empowered the Central Government to prohibit or regulate the import of any article or class of articles likely to cause infection to any crop. In exercise of that power, the Central Government, by Notification dated 25th October. 1989. made an order for matters relating to inspection, fumigation, disinfection and supervision of some articles such as plants, fruits and seeds which were imported into India. Fees were also provided to be levied and collected for the aforesaid purposes. Under the New Seed Policy, the import of seeds and plant materials was brought under Open General Licence resulting in heavy import thereof. The Government had, therefore, to strengthen the infrastructural facilities and services of Plant Quarantine organisations in order to prevent the entry of exotic diseases through such imported consignments. 2. The Calcutta High Court in a writ petition held that the aforesaid Act did not empower the Government to levy any fees for inspection, fumigation, etc. The Bombay High Court also in a case struck down the imposition of fees and directed the refund of money. 3. It was considered necessary to enable the Government to levy and collect fees for the services rendered and for meeting expenditure on maintaining Plant Quarantine organisations. It was also necessary to validate the levy and collection of fees made earlier. In the circumstances, suitable provisions in the aforesaid Act empowering the Central Government to levy fees for inspection, fumigation, etc., on imported consignments and for validation of the fees already levied or collected were, therefore, required to be made. 4. The Ordinance, namely, the Destructive Insects and Pests (Amendment and Validation) Ordinance. 1992 was, therefore, promulgated by the President on 25th January, 1992. 5. The Bill seeks to replace the said Ordinance and to achieve the aforesaid objects. Gaz. of Ind..28-2-92, Pt. II. S.2. Ext.. p. 17 (No. 5).

### **1. Short title and extent :-**

<sup>1</sup>[(1)] This Act may be called the Destructive Insects and Pests Act, 1914. <sup>2</sup>[It extends to the whole of India <sup>3</sup> [\* \* \*],]

1. Section 1 was renumbered as sub-section (1) of that section by the Part B States (Laws) Act. 1951(30 of 1951), S.3 and Sc. (1-4-1951).

2. Sub-section (2) was inserted, the Part B States (Laws) Act. 1951(30 of 1951).

3. Word "except the State of Jammu and Kashmir" were omitted by the Jammu and Kashmir (Extension of Law-I Act.1956 (62 of 1956). S. 2 and Sch. (1-1 1-1956).

## **2. Definitions :-**

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

(a) "crops" includes all agricultural or horticultural crops <sup>1</sup>[and all trees, bushes or plants] :

(b) "import" means the bringing or taking by sea <sup>2</sup>[land or air] <sup>3</sup>[across any customs frontier as defined by the Central Government] ; [\*] <sup>4</sup>

(c) "infection" means infection by any insect, fungus or other pest injurious to a crop; <sup>5</sup>[\*]

**6** [(d) \* \* \* \* \* ]

1. Substituted for the words "and trees or bushes" by the Destructive Insects and Pests (Amendment) Act. 1938 (6 of 1938). S..3(12-3-1938).

2. Substituted for "or land" by the Destructive Insects and Pests (Amendment) Act. 1930 (20 of 1930). S. 2.

3. Inserted by A.O.. 1937.

4. Word 'and' was repealed by the Destructive Insects and Pests (Amendment) Act, 1939 (3 of 1939). S. 2 (2-2-1939).

5. Word 'and' omitted by A. C.A. 0.. 1948.

6. Clause (d) defining India', inserted by Act 3 of 1951, was omitted by the Jammu and Kashmir (Extension of Laws) Act. 1956 (62 of 1956).S.2 and Sch. (1-11-1956).

## **3. Power of Central Government to regulate or prohibit the import of articles likely to infect :-**

(1) The <sup>1</sup>[Central Government] may, by notification in the <sup>1</sup>[Official Gazette], prohibit or regulate, subject to such restrictions and conditions as <sup>1</sup>[it] may impose, the import into <sup>4</sup>[India] or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop <sup>5</sup>[or of insects generally or any class of insects.]

(2) A notification under this section may specify any article or class of articles <sup>3</sup>[or any insect or class of insects] either generally or in any particular manner, whether with reference to the country of

origin, or the route by which imported or otherwise.

**7** [(3) The Central Government may, by notification under this section, also levy and collect such fees at such rates and in such manner as may be specified therein for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfestation or supervision of, any article or class of articles or any insect or class of insects under this section.]

Amendment made in 1938.- Power under sub-section (1) of this section, prior to its amendment in 1938. was not available to the Central Government for the prohibition or regulation of movement from one part of British India to another of living plants likely to cause infection to any crop. Central control as contemplated in Item 30 of Part II of List III of the Seventh Schedule of Government of India Act, 1935, was considered desirable. The introduction of the amendments made in 1938 now provide for such control. The amendments also enable the Central Government to exercise control over the importations, and movement from one Province to another Province of live insects which are or may be destructive to crops in other ways than by causing infection to them (See S. 4A). See S.O.R. 1938.

1. Substituted for "Governor-General in Council." "Gazette of India" and "he" by A.O.. 1937.

4. Substituted for "the said territories" by the Part B States (Laws) Act. 1951 (3 of 1951), S. 3 and Sch. (1-4-1951).

5. Inserted by the Destructive Insects and Pests (Amendment) Act, 1938 (6 of 1938), S. 4 (12-3-1938).

7. Inserted by the Destructive Insects and Pests (Amendment and Validation) Act (12 of 1992). S. 2 (w.r.e.f. 27-10-1989).

#### **4. Operation of notification under section 3 :-**

A notification under Section 3 shall operate as if it had been issued under s.19 of the Customs Act, 1878, and the officers of Customs at every port shall have the same powers in respect of any article with regard to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

#### **4A. Power of Central Government to regulate or prohibit transport from c [State] of insects or articles likely to infect**

:-

The Central Government may, by notification in the Official Gazette, prohibit or regulate, subject to such conditions as the Central Government may impose, the export from a <sup>1</sup>[State] or the

transportation from one <sup>1</sup>[State] to another <sup>1</sup>[State] <sup>4</sup> [\* \*] of any article or class of articles likely to cause infection to any crop or of insects generally or any class of insects.]

1. Substituted for 'Province' by A.L.O., 1950.

4. The words "in British India" were omitted by A.C.A.O.. 1948.

#### **4B. Refusal to carry article of which transport is prohibited**

:-

When a notification has been issued under Section 4A , then, notwithstanding any other law for the time being in force, the person responsible for the booking of goods or parcels at any railway station or inland steam vessel station,-

(a) where the notification prohibits export or transport, shall refuse to receive for carriage at, or to forward or knowingly allow to be carried on, the railway or inland steam vessel from that station anything, of which import or transport is prohibited, consigned to any place <sup>1</sup>[in a <sup>2</sup>[State] other than the <sup>2</sup> [State]] in which such station is situate; and

(b) where the notification imposes conditions upon export or transport, shall so refuse, unless the consignor produces, or the thing consigned is accompanied by, a document or documents or the prescribed nature showing that those conditions are satisfied.]

1. Substituted by A.C.A.O.. 1948.

2. Sustituted for 'Province' by A.L.O., 1950.

#### **4C. Application of section 4B to articles exported to the State of Jammu and Kashmir :-**

Repealed by the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), S.2 and Sch. (1-11-1956.)]

#### **4D. Power of Central Government to make rules :-**

**1**

[(1)] The Central Government may, by notification in the Official Gazette, makes rules prescribing the nature of the documents which shall accompany any article or insect the export or transport whereof is subject to conditions imposed under Section 4A , or which shall be, held by the consignor or consignee thereof, the authorities which may issue such documents and the manner in which the documents shall be employed : **1** [\* \* \* \* ]

**1** [(2) Every rule made by the Central Government under this

section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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 such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. S. 48A re-numbered as sub-section (1), Proviso omitted and sub-sec. (2) inserted by the Delegated Legislation Provisions (Amendment) Act (4 of 1986), S. 2. Sch. (15-5-86).

#### **5. Power of State Government to make rules :-**

( 1 ) The <sup>1</sup>[State Government] may <sup>1</sup>[by notification in the official Gazette,] <sup>3</sup>[\* \* \*] make rules for the detention, inspection, disinfection or destruction <sup>4</sup>[of any insect or class of insects or] of any article or class of articles <sup>5</sup>in respect of which a notification has been issued under Section 3 <sup>3</sup>[or under Section 4A ] or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the <sup>1</sup>[State Government] may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

<sup>8</sup> [(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.]

1. Substituted for "Provincial Government" by A.I.O. 1950.
3. Words "subject to the control of the Governor-General in Council" were omitted by A.O., 1937.
4. Inserted by the Destructive Insects and Pests (Amendment) Act. 1938(6 of 1938). S. 6(12-3-1938).
5. For Infected Articles (Detention, Inspection, Disinfection and Destruction) Rules in the States of Kerala, Mysore, Andhra Pradesh and Maharashtra and the Union Territory of Himachal Pradesh now a State, sec Ker.Gaz., 8-1 1-1960. Pt. I. S. 4, p. I (G..3261): Mys.Gaz.. 29-8-1963. Pt. IV, S. I(c)(ii). p. 2303: A.P.Gaz. 23-1-1964. Pt. II. R.S.. p. 23: Maha. Gaz., 28-5-1964. Pt. IV-B. p. 525

and H. P. Gaz., 19-11-1960. Pt.II. p. 1014. respectively. For U. P. Infected Plants and Plant Materials Rules. 1948 and U. P. Plants and Plant Materials (Inspection and Examination) Rules. 1948. see U. P. Gaz.. 1948. Pt. I-A. pp. 537 and 538.

8. Inserted by the Delegated Legislation Provisions (Amendment) Act (4 of 1986). S. 2. Sch. (15-5-86).

### **5A. Penalties :-**

Any person who knowingly exports any article or insect from a <sup>1</sup>[State] or transports any article or insect from one <sup>1</sup>[State] to another <sup>3</sup>[\* \*] in contravention of a notification issued under Section 4A , or attempts so to export or transport any article or insect <sup>4</sup> [\* \* \*] and any person responsible for the booking of goods or parcels at a railway or inland steam vessel station who knowingly contravenes the provisions of Section 4B shall be punishable with fine which may extend to two hundred and fifty rupees and, upon any subsequent conviction with-fine which may extend to two thousand rupees.]

1. Substituted for 'province' by A.L.O.. 1950.

3. Words "in British India" were omitted by A.C.A.O. 1948.

4. Words "or exports or attempts to export from India to the State of Jammu and Kashmir any article or insect in respect of which a notification under Section 4C has been issued" were omitted by the Jammu and Kashmir (Extension of Laws) Act. 1956(62 of 1956). S.2 and Sch. (1-1 1-1956).

### **6. Protection to persons acting under Act :-**

No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act.