

Short Article

The Epidemic Diseases Act 1897 and much needed Amendment Ordinance, 2020 for Corona containment

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Abstract: Covid-19 with more than 2 crore cases and 7.5 lakh deaths brought world to standstill. India had about a century old Epidemic act with IPC and Cr PC as legal weapons to deal with such an aggressive pandemic which are far than minimal to deal with a situation like this in present time. So, looking at the gravity of current pandemic; Govt. of India passed a much clear and needed law as an Epidemic Disease ordinance 2020 on 22nd April 2020 for better containment and control of Covid-19 pandemic. Amendment has covered the fields which were either unclear or not at all covered or defined in the earlier Act.

Keywords: Covid-19, Pandemic, 7.5Lakh deaths, 2 Core Case, Government.

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SUMMARY

COVID-19 or Novel Coronavirus with more than 2 crore case and 7.5 lakh (WHO Situational report 207.14.8.2020) ^[i] deaths globally have brought the world to a standstill. This is a story with an unclear ending. Cancellation of flights, shutdown of public places, and remote offices has caused unprecedented disruption to businesses across the globe. However, one may question if we have a law to deal with this crisis? The **Criminal Procedure Code** and **Indian Penal Code** may equip the government with tools to fight the crisis but does not provide a solution in the platter.^[2] Alongside the IPC, we have the more than a century old **Epidemic Disease Act, 1897** (ED Act) which is India's preliminary weapon against COVID-19. The ED Act nowhere defines what an "**epidemic disease**" is nor prescribes a situation as to when this act can be invoked or as to what makes it "dangerous" as per the act.^[iii] Neither did the Epidemic Disease act clearly delineate the working conditions nor it had a clear mention of properties covered under it.

So, looking at the limitations of old act Govt. of India, amended The Epidemic Disease Act, 1897; through an ordinance called "The Epidemic Disease (Amendment) Ordinance 2020" on 22nd April 2020; for better management and containment of current Covid-19 pandemic.

"The Epidemic Disease Act" was enacted on 4th February, 1897^[iii]; by Indian Parliament and amended to the "Epidemic Diseases (Amendment) Ordinance, 2020"^[iv] on 22.4.2020. **Aim** of this act is to provide regulations for the better prevention of the spread of dangerous epidemic disease. Earlier (before the 1st November, 1956) it was applicable to whole of India except^[v] Part B States (8 States which in English times were ruled by Rajpramukhs included Mysore, Hyderabad, J&K, Patiala and Eastern Punjab, Madhya Bharat, Saurashtra etc.)^[vi] but now applicable to whole of India.^[vii]

Section.1 Defines Short title and extent, Section 2 Powers of Govt. to take special measures and prescribe regulations as to dangerous epidemic disease, Sec.3 deals with penalty and four Provide Protection to persons acting under Act.

Sec.1A: Amended in new amendment. Further subdivided into subsection A-D as follows. ^[4]

- a) Defines **act of violence against any health care** worker (HCW) during service in Epidemic. It has got four Subsection

- i. Harassment impacting the living or working conditions of health care personnel and preventing from discharging duties.
 - ii. Harm, Injury, hurt, intimidation or threat to the life of a HCW.
 - iii. Obstruction or hindrance in discharging duties.
 - iv. Loss or damage to property of HCW or document related to epidemic.
- b) **Defines a health care worker** who is doing services in Epidemic and may come in contact with affected person.
- i. Any public or clinical HCP like Doctor, Nurses, Paramedical workers or Community health workers.
 - ii. Any person empowered to prevent Disease and its spread.
 - iii. Any person declared by Govt. for such act.
- c) **Deals with Property:** Following are defined as property in Epidemic act
- i. A clinical establishment defined in clinical establishment Act 2010.
 - ii. Quarantine or isolation facility.
 - iii. A mobile medical unit
 - iv. Any other in which HCW has direct interest in relation to epidemic
- d) **All Others:** Properties defined in Sec 15 of Indian Port Act 1908, Sec 22 of Indian Aircraft act 1934 and Sec 31 of Indian Land port Act 2010 are also covered under property.

Section 2: If Government (Central or State) is satisfied that the Country/State or any part of it is visited by, or threatened with, an outbreak of any dangerous epidemic disease and thinks that the ordinary provisions of the law are insufficient may take measures and prescribe regulations.

Under sec 2A. Central Government: May authorize any person for inspection of any ship or vessel leaving or arriving at any port in and for such detention thereof. Amended to inspection of any bus, train, goods vehicle or ship or aircraft or vessel arriving or leaving any land port, port or aerodrome for detention in Amendment Ordinance⁴.

State Government: (a) May take measures and prescribe regulations to be observed by the public or by any person necessary to prevent the outbreak. May determine the manners any expense occurred shall be defrayed. (b) Take measures and prescribe regulations for inspection of persons suspected to be infected with such disease who may travel by railway or otherwise, in segregation, in hospital, or temporary accommodation etc.

2B (Amendment): Says that no person shall indulge in violence against health persons and damage property in epidemic.^[4]

Section 3 of Epidemic disease act deals with penalties and how to proceed to penalty.

Subsection 3.1 says 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 (45 of 1860).

Subsection 3.2. Whosoever commits or abets to commit crime under this section and abets to cause damage to any property defined under the act.

Subsection 3.3 says if simple hurt is caused then convicted shall be punished with imprisonment of 3 months extendable up to 5 years with minimum fine of 50 thousand extendable up to 2 lakhs. In case of grievous hurt imprisonment not less than 6 months extendable up to 7 years with minimum fine of one lakh extendable up to 5 lakhs.

Amendments in Sec.3: Subsection 3A-3E have been added in recent amendment^[4]

Sub sec. 3A: Deals with cognizance and trial of offence under Cr PC 1973. Offence under this act is cognizable and non bailable, investigation must be done by a police personnel not below the rank of an inspector, investigation must be completed within 30 days of FIR and trial must be done on day to day basis as far as possible if not then judge must record reason for not doing so.

Section 3B says that offence can only be compounded with permission of court by a person against whom it has been committed.

Section 3C testifies that court shall presume that offence has been committed unless proved otherwise.

Section 3D deals with Culpable mental status of accused meaning thereby that court shall presume that accused had culpable mental state unless proved otherwise. There was intention, motive, knowledge of fact and reason to believe. To prove otherwise probability beyond doubts must be proved (Insane state of mind clearly on medical ground)

Sec. 3E is for compensation of act of violence with following clauses:

1. Convicted person shall be liable to pay compensation, in addition to punishment, to health care personnel as determined by court.
2. Compensation to property loss should be twice the fair market value of property.
3. Upon failure to pay compensation it will be recovered as an arrear of land revenue under revenue recovery act 1890.

Section.4: Says no suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

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5. Sub- section (3) omitted by Act 38 of 1920, s. 2 and Sch. I.
6. Ins. by Act 38 of 1920, s. 2 and the First Schedule. Earlier substituted by the A.O.1937.
7. Subs. by the Adaptation of Laws (No.2) Order, 1956, for “a Part A State or a Part C State.