

L. A. Bill No. 24 of 1957

**THE KERALA AGRICULTURAL PESTS AND
DISEASES BILL**

NOTIFICATION

No. LA.4-1063|57.

Dated 6th August 1957.

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker, under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHY,
Secretary, Legislative Assembly.

L. A. Bill No. 24 of 1957

THE KERALA AGRICULTURAL PESTS AND DISEASES BILL, 1957.

A

BILL

*to make provision for preventing the spread of
insect pests, plant diseases and noxious weeds
within the State of Kerala.*

Preamble. Whereas it is expedient to take measures to prevent the spread of insect pests, plant diseases and noxious weeds injurious to health or to crops, plants, trees or water-supply or obstructive to water-ways within the State of Kerala;

Be it enacted in the Eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Agricultural Pests and Diseases Act, 1957.

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

(3) It shall come into force at once.

2. *Interpretation.*—In this Act, unless the context otherwise requires,—

(a) “insect pest” means any insect or other invertebrate animal which has been declared by notification under section 3 or section 9 of this Act to be an insect pest;

(b) “plant disease” means any fungoid, bacterial, parasitical or other disease which has been declared by notification under section 3 or section 9 of this Act to be a plant disease;

(c) “noxious weed” means any weed which has been declared by notification under section 3 of this Act to be a noxious weed;

(d) “plant” includes the fruit, leaves, bark, cuttings 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 Government by notification;

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

land, premises or water; and includes a local authority and a company having such right of occupation or in such actual occupation;

(f) "notified area" means the area covered by a notification published under section 3 or section 9;

(g) "Director of Agriculture" means an officer appointed by the Government to be the Director of Agriculture and includes every person who for the time being performs the duties of the office;

(h) "prescribed" means prescribed by notification or rules made under this Act.

PART II

OF INSECT PESTS, PLANT DISEASES AND NOXIOUS WEEDS.

3. *Notification by the Government of areas affected by insect pests, plant diseases or noxious weeds.*—(1) If the Government consider that any pest, disease or weed in any local area is dangerous to health or is injurious to crops, plants, trees or water-supply or is obstructive to water-ways and that it is necessary to take measures to eradicate it or to prevent its introduction or re-appearance, they may, by notification in the Gazette,—

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

(b) prohibit or restrict the removal of any plant 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 preventive or remedial measures prescribed in sub-section (1) include the removal or destruction of any plant in order to eradicate or prevent the introduction or re-appearance of any insect pest, 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.

4. *Liability on the occupiers.*—On the issue of a notification under section 3, every occupier within 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, the Government shall be deemed to be the occupier in the case of all lands which are the property of Government within the meaning of section 3, sub-section (1), of the Travancore-Cochin Land Conservancy Act, 1951 (XIX of 1951) or sub-section of section 2 of the Madras Land Encroachment Act, 1905 (III of 1905).

5. *Right of entry.*—Any officer appointed under section 21 may enter on any 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.

6. *Procedure where measures prescribed to eradicate insect pests include removal or destruction of plants.*—Where the remedial or preventive measures prescribed by a notification under section 3 include the removal or destruction of any plant in order to eradicate or prevent the introduction or re-appearance of any insect pest, any occupier who fails to remove such plant on or before the date specified in the notification shall be deemed to have committed an offence under this Act and the removal or destruction of such plant may be carried out by the inspecting officer or under his supervision.

7. *Inspecting officer may serve a notice on occupier to take remedial or preventive action.*—(1) If any inspecting officer appointed under section 21 finds that any prescribed remedial or preventive measures other than those specified in section 6 have not been properly carried out, he may, subject to such rules as the Government may prescribe under section 23, clause (e), 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 may, 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-section (1).

8. *Occupier failing to comply with the notice served on him commits an offence.*—If any occupier upon whom notice has been served under section 7 fails to comply with the notice within the time specified by the inspecting officer, or, in cases where an appeal has been preferred, by 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.

9. *Preventive or remedial measures in emergent cases.*—

(1) Notwithstanding anything contained in sections 3 to 8, if the Government are satisfied that any pest or disease injurious to crops, plants or trees is prevalent in any local area and that immediate preventive or remedial measures have to be taken, they may, by notification in the Gazette,—

- (a) declare that such pest or disease is an insect pest or plant disease ;
- (b) prescribe such preventive or remedial measures as may be necessary in respect of such pest or disease ;
- (c) prohibit or restrict the removal of any plant from one place to another ;
- (d) define the local area within which, and the period during which, such notification shall be in force; and
- (e) declare that it shall be competent to the Government to cause the prescribed preventive or remedial measures to be carried out in the notified area.

(2) Upon the issue of a notification under sub-section (1) it shall be competent to the inspecting officer appointed under section 21 to enter on any land or water within the notified area and carry out the prescribed preventive or remedial measures or cause such measures to be carried out under his supervision.

(3) Where any preventive or remedial measures are carried out under sub-section (2), the occupier shall be liable to pay to the Government towards the cost of the measures an amount not exceeding the percentage of such cost prescribed by the Government by notification in the Gazette. The inspecting officer shall by order in writing determine the amount payable by the occupier and demand payment of the amount within such time as may be specified therein. If the occupier defaults payment as aforesaid, the amount shall be recoverable from him as if it were an arrear of land revenue.

(4) In calculating the cost of the preventive or remedial measures for the purposes of sub-section (3), the following shall be taken into account, namely :—

(a) charges for labour, material or use of implements ;
and

(b) proportionate charges for any special establishment entertained for the purpose.

(5) Any occupier considering himself aggrieved by an order passed by the inspecting officer under sub-section (3) may apply to such officer as may be authorised by the Government in this behalf to revise the order of the inspection officer :

Provided that no such application shall lie unless —

- (i) it is made within thirty days from the date of receipt by the occupier of such order ; and
- (ii) the amount demanded has been paid in accordance with such order.

(6) The officer to whom an application is made under sub-section (5) may, after making such enquiry as he thinks fit, either affirm or vary the order of the inspecting officer and his decision shall be final.

(7) Where the amount paid by the occupier is in excess of the amount payable under the order as revised, such excess shall be refunded to him.

10. *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 section 6 or section 8, 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 Collector within thirty days from the date of demand on the ground that—

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

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

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

11. *Destruction of trees or plants in execution of remedial or preventive measures and compensation therefor.*—(1) If in carrying out any prescribed remedial or preventive measures under section 6 or section 8 or section 9 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, become liable to such infection, he shall serve a notice in writing on the occupier stating particulars of the trees and plants destroyed and his estimate of their value.

(2) When any trees or plants are destroyed as aforesaid, the occupier shall be entitled to compensation as follows :—

for a tree destroyed under sub-section (1), clause (a)—not exceeding one-half the value thereof ;

for plants destroyed under sub-section (1), clause (b)—not exceeding two-thirds the value thereof ;

for plants destroyed under sub-section (1), clause (c)—their full value :

Provided that no compensation shall be payable for cotton plants the destruction of which has been prescribed in order to eradicate or prevent the introduction or re-appearance of any insect pest.

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

12. *Claims for compensation how and when to be made.*—All claims for compensation under section 11 or section 18 shall be made in writing to the valuing officer appointed by the Government within one month from the service of the notice mentioned in sub-section (1) of section 11 or within one month from the date of destruction of the tree or plant, as the case may be, by the occupier.

13. *Award of compensation.*—(1) The valuing officer, after making such inquiry and taking such evidence as he may consider necessary, shall award compensation not exceeding the rates prescribed in section 11 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.

14. *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.

15. *Obligation of village officers to report on insect pests, plant diseases or noxious weeds.*—All village officers of villages in taluks adjoining a notified area within whose village limits a pest, disease or weed similar to the insect pest, plant disease or noxious weed within the notified area shall appear, shall report the same to the Collector.

16. *Punishment for offence under section 6 or 8.*—Any one convicted by a Magistrate of an offence under section 6 or section 8 of this Act shall be liable to fine not exceeding fifty rupees or in default to simple imprisonment for a period not exceeding ten days.

17. *Contravening notification under section 3 (1) (b) to be an offence and punishment therefor.*—If any person contravenes a notification under section 3, sub-section (1), clause (b), of this Act prohibiting or restricting the removal of any plant from one place to another, he shall be deemed to have committed an offence under this Act. Any one convicted by a Magistrate of such an offence shall, in addition to confiscation and destruction of the plant in respect of which the offence was committed, be liable to fine not exceeding fifty rupees or in default to simple imprisonment for a period not exceeding ten days.

18. *Compensation for trees and plants destroyed by occupier.*—Where an occupier destroys any trees or plants in obedience to a notice issued under section 7, he shall be entitled to such compensation as he would have been entitled to under section 11 if such tree or plant had been destroyed by the inspecting officer.

19. *Compensation not payable for noxious weeds destroyed.*—Notwithstanding anything in this Act, no compensation shall be payable for any noxious weed destroyed.

20. *Institution of prosecutions or other legal proceedings under the Act*—(1) No suit, prosecution or other legal proceedings shall lie against any officer for anything done under this Act in good faith or for any damage to property 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 District Collector.

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

21. *Appointment of inspecting officers.*—The Government may, from time to time, appoint inspecting officers for the purpose of carrying out the duties prescribed in sections 5, 6 and 7.

22. *Delegation of powers.*—The Government may, by notification in the Gazette, delegate all or any of their powers under this Act except those conferred by section 23 to the Director of Agriculture or any other officer or to any local authority or the president or chairman of any local authority.

23. *Power to make rules.*—The Government may, by notification in the Gazette, make such rules not inconsistent with the provisions of this Act as may, from time to time, be necessary—

(a) prescribing the methods of publication of description of insect pests, plant diseases and noxious weeds and of the treatment to be followed ;

(b) prescribing the qualifications required of inspecting officers ;

(c) prescribing the procedure to be followed in making an award under section 13 and the methods and conditions of valuation of trees and plants ;

(d) prescribing the officers to whom appeals may be made and the procedure to be followed in respect of such appeals ;

(e) prescribing the procedure, notices and method of service thereof, notifications, registers and other processes needed for the effectual working of this Act ; and

(f) generally to carry out the purposes of this Act.

24. *Rules to be laid before the Legislative Assembly.*—All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.

25. *Repeal* —The Travancore-Cochin Agricultural Pests and Diseases Act, 1955 and the Madras Agricultural Pests and Diseases Act, 1919, as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The law providing for the prevention of the spread of insect pests, plant diseases and noxious weeds in the State is contained in the Travancore-Cochin Agricultural Pests and Diseases Act, 1955 and the Madras Agricultural Pests and Diseases Act, 1919. It is considered necessary to have a uniform law on the subject throughout the State. The Bill is intended for this purpose.

FINANCIAL MEMORANDUM.

Clause 9 (2) of the Bill provides for the carrying out of the prescribed preventive or remedial measures by the inspecting officers. Clause 9 (3) provides for the realisation of only a percentage of the cost of the measures from the occupier concerned. Clauses 11 and 18 of the Bill provide for the payment of compensation and clauses 12 and 21 provide for the appointment of valuing and inspecting officers. Provisions corresponding to clauses 11, 12, 18 and 21 are contained in the laws in force in the Malabar and Travancore-Cochin areas. The Madras Agricultural Pests and Diseases Act does not however contain a provision on the lines of clause 9.

The question of incurring expenditure arises only when the notification contemplated by clause 3 or clause 9 is published in the Gazette. It is not possible to forecast in how many cases the necessity for the issue of a notification will arise or to prepare an estimate of expenditure that may have to be incurred in that connection. The additional expenditure which will have to be incurred consequent on the extension of the provision contained in clause 9 cannot be estimated at present.

C. ACHUTA MENON.
