

The Madhya Bharat Kans Eradication Act Samvat, 2005

MADHYA BHARAT

India

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Act 17 of 1949

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The Madhya Bharat Kans Eradication Act Samvat, 2005 M.B. Act No. 17 of 1949 (Samvat 2005) [Dated 11th January, 1949] Received the assent of H.H. the Raj Pramukh on 11-1-1949. An Act to provide for the eradication of Kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat). Whereas it is expedient to provide for the eradication of Kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat); It is hereby enacted as follows :

1. Short title, extent and commencement.

(1) This Act may be called "The United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Act, Samvat 2005". (2) It extends to the whole of the United State of Gwalior, Indore and Malwa [(Madhya Bharat region)] [Substituted by M.P. A.O. of 1956.] and shall come into force immediately on its publication in the Government [Gazette] [Published in M.B. Gazette, dated 1-2-1949.] of the said United State.

2. Definitions.

- For the purposes of this Act, - (a) "United State" means the United State of Gwalior, Indore and Malwa (Madhya Bharat); (b) "Government" means the Government of the United State; (c) "Eradication operation" means- [Substituted by M.B. Act No. 6 of 1956 (w.e.f. 17-11-1949).] (i) such operations as are considered necessary by the Kans Eradication Officer to eradicate Kans from Kans area, or (ii) such operations for the eradication of Kans as may be performed by the Kans Eradication Officer in any land either with the consent express or implied of the person having interest in the land, or (iii) such operations as the Kans Eradication Officers considers necessary on any land with a view of check the spread of Kans into the adjoining area. (d) "Kans" means a kind of weed which grows spontaneously in the field and which is usually known as Kans; (e) "Kans area" means the area

which- the Government may by notification declare under clause (a) of sub-section (1) of Section 3 to be an area infested with Kans;(f)"Kans Eradication Officer" means an officer appointed as such by the Government and includes any other officer authorised by the Kans Eradication Officer to exercise all or any powers conferred upon him under this Act.

3. Declaration of Kans area.

(1)If the Government is satisfied that any area is infested with Kans, it may, by notification-(a)declare such area, giving full particulars therefore, to be a Kans area for the purpose of this Act; and(b)authorise the Kans Eradication Officer to enter upon any land in such area and take possession thereof for such period as may be specified for the purpose of eradication of Kans from such area.(2)Such notification shall be a sufficient notice of the facts stated therein to all persons owning or having interest in the land comprised in such area.(3)The Suba (Collector) of the District comprising the Kans area shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

4. Constitution of Kans Eradication Committee.

- The Government may for the purposes of assisting the Kans Eradication Officer, appoint a Kans Eradication Committee consisting of such persons as it may think fit, and assign such duties to the Committee as it may deem proper.

5. Power to survey and carry on eradicating operations.

- On the issue of notification under sub-section (1) of Section 3, the Kans Eradication Officer and his subordinates and workmen authorised by him in this behalf may-(a)enter upon any land in the Kans area for the purpose of survey and any other ancillary purpose; and(b)take possession of the whole or any part of the Kans area and carry on eradication of operation therein.

6. Liability of owners, etc., for cost of eradicating operations.

- [(1) The cost of eradication operations shall be determined by the Government or such Collector as the Government may authorise in this behalf by notification in the Gazette and shall if there are several owners or persons having interest in the land covered by the operations be equitably apportioned between them by the Kans Eradication Officer after consulting the Kans Eradication Committee.] [Substituted by M.B. Act No. 6 of 1956.](2)Every persons owning or having interest in the land in which eradication operations have been carried on shall be liable to pay the costs of such operations carried on his land.(3)The Kans Eradication Officer shall fix the amount of cost payable by each owner or other person having interest in the land comprised in the Kans area. The amount so fixed shall be a charge on the land to which it relates, and shall not be called in question in any suit or other legal proceeding.(4)The Kans Eradication Officer in consultation with the Kans Eradication Committee shall also determine whether the amount so apportioned shall be paid by the person owning or having interest in the land in one lump-sum or by annual or other instalments and

where he directs annual or other instalments, he may fix the amount and number of such instalments.

6A. [Dispute regarding consent how to be settled. [Inserted by M.B. Act No. 6 of 1956.]

- In the case of dispute regarding whether the person having interest in the land had or had not consented for the performance of eradication operations in the land, the Kans Eradication Officer shall refer the matter to the Deputy Collector specially authorised in this behalf by the Government for decision. The Deputy Collector shall, after giving person or persons having interest in the land an opportunity of objections being heard, declare his decision in this respect and an appeal against such decision shall lie to the Board of Revenue within 30 days of the decision. The orders passed by the Board of Revenue on such appeal shall be final and shall not be called in the question in any Court of law.]

7. Recovery of costs.

(1)The Suba (Collector) shall cause to be served on a person owning or having interest in the land in which eradicating operations have been carried on, a notice demand specifying the amount of cost of eradication payable by him and the period within which it shall be paid.(2)The said costs shall be recoverable as arrears of land revenue.

8. Compensation for damage.

(1)Any person may within thirty days from the date of restoration of the land to him, apply to the Kans Eradication Committee for payment of compensation for destruction of or damages to any plant or tree in his land as a result of the eradication operations carried on under Section 5.(2)On receipt of such application the Kans Eradication Committee may make such enquiry as it deems fit, and if in its opinion the payment of compensation is justified, it may grant such amount of compensation as it deems fit.(3)The decision of the Kans Eradication Committee shall be final in all respects and shall not be called in any Court of Law.

9. Power of Suba (Collector) to enforce compliance.

- The Suba (Collector) may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of the Act.

10. Persons acting under the Act to be public servants.

- All persons acting in pursuance of the provisions of this Act, shall be deemed to be public servants within the meaning of that expression in the Penal Code in force in the area concerned of the United State.

11. Protection of persons acting in good faith.

(1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is good faith done or intended to be done under this Act. (2) No suit shall be instituted against the Government for anything done or intended to be done under this Act.

12. Power to make rules.

(1) The Government may by notification make rules for carrying out the purpose of this Act. (2) Without prejudice to the generality of the foregoing powers, such rules may provide for the assessment of damages to embankment and field-boundaries and payment of compensation therefor.

13. Repeal.

- As soon as this Act comes into force, the United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Ordinance, Samvat 2005, shall stand repealed : Provided that all orders made, and actions taken under the said Ordinance shall be deemed to have been made or taken, as the case may be, under this Act.