

# **The Jammu and Kashmir Plant Disease and Pests Act, 1973**

JAMMU & KASHMIR

India

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### **Act 14 of 1973**

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The Jammu and Kashmir Plant Disease and Pests Act, 1973(Act No. 14 of 1973)[Received the assent of the Governor on 27th April, 1973 and published in Government in Government Gazette dated 30th April, 1973.]An Act to prevent the introduction, spread or reappearance of plant diseases, pests, parasites and noxious weeds.Whereas it is expedient to make provision for preventing the introduction, spread or reappearance of plant diseases, pests, parasites and noxious weeds which are may be destructive to plants or are likely to contaminate water supply or are obstructive to water ways in the state, and for matters connected therewith.Be it enacted by the Jammu and Kashmir legislature in the Twenty fourth Year of the Republic of India as follows

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

(1)This Act may be called the Jammu and Kashmir Plant Diseases and Pests Act, 1973.(2)It extends to the whole of the State of Jammu and Kashmir.

### **2. Definitions.**

- In this act, unless the context otherwise requires,-(a)"affected area" means any area declared as such under section 3;(b)"District Magistrate" includes any Gazetted Officer of the Government authorised by the District magistrate to perform all or any of the functions of the District magistrate under this Act;(c)"Inspecting officer" means any Inspecting Officer appointed under section 13;(d)"noxious weed" means any weed declared as such under section 3;(e)"parasite" means any plant or animal carrying on its existence wholly or in part any agricultural crop, plant, tree, bush or herb(f)"occupation" means the person having for the being the right of occupation of any land, water or premises, or his authorised agent or any person in occupation of the land, water or premises;(g)"pest" means any insect, invertebrate animal (including any other animal organism and declared to be a pest under section 3);(h)"plant" includes all horticultural or agricultural crops,

trees, bushes or herbs and also includes the seed, fruit, leaves trunk roots, bark or cutting or part thereof;(i)"plant disease" means any fungoid, bacterial, virus, vegetable organism, parasitical or other disease, declared to be a plant disease under section 3; and(j)"prescribed" means prescribed by rules made under this Act.

### **3. Power to declare plant diseases, pests, parasites and noxious weeds.**

- Where it appears to the Government that any disease, pest, parasite or weeds in any area is injurious to plants, or is likely to contaminate water supply or is obstructive to waterways, and that it is necessary to take measures to eradicate such disease, pest, parasite or weed, or to prevent its introduction, spread, or reappearance, the Government may by notification in the Government gazette, declare the area to be an affected area for such period as may be specified, and with reference to such area also-(a)declare that disease, pest, parasite or weeds is a plant disease, pest, parasite or noxious weed;(b)prohibit or restrict the movement or removal of any plant, soil or manure from one place to another;(c)prohibit the plantation or growing of any plant which is likely to be injurious to other plants; and(d)direct that such other preventive or remedial measure shall be carried out at the District Magistrate may consider necessary to eradicate, destroy or prevent the introduction, spread or reappearance of any plant disease, pest, parasite or noxious weed.

### **4. Power to issue directions.**

(1)On or after the issue of a notification under section 3, District magistrate may, by notice,-(i)direct every occupier within the affected area to carry out such preventive or remedial measures (including the removal or destruction of plants which are infested or likely to be infested) as the District Magistrate may specify in the notice, to eradicate, destroy or prevent the introduction, spread or reappearance of any plant disease, pest, parasite or noxious weeds;(ii)call upon any male person, not being below the age of eighteen years and residing within the said area, to render such assistance as may be specified in the notice, in carrying out the measure referred to in clause (i);Provided that-(a)no person who is not an occupier shall be called upon to render whole-time service for a period exceeding seven days at a time and there shall be an interval of not less than ninety days before any such person is called upon to render whole time service after having already rendered such service; and(b)no person who is, by reason of old age, disability or any other reasonable cause, physically incapable of rendering assistance or who lives at a distance of more than 8 kilometers from the place where his presence is required for the purpose of rendering assistance, shall be called upon to render such assistance; and(iii)specify the area within which and the period during which the measures referred to in clause (i) are to be carried out.(2)it shall be not necessary to notify every occupier under clause (i) of sub-section (1) or every other person whose assistance is required under clause (ii) of the said sub-section, and a proclamation in this behalf made by beat of drum or other customary mode in the area, village or locality shall be deemed sufficient notice to all affected persons residing in that area, village or locality.

## **5. Duties of occupier on the issue of notice under section 4.**

- On the issue of a notice under section 4, -(i) it shall be duty of every occupier within the affected area to carry out the preventive or remedial measure specified in such notice; and (ii) it shall be duty of every male person to render assistance in such manner as has specified in the notice.

## **6. Power of inspecting Officer to enter upon any land or premises.**

- Any inspecting Officer may, after giving reasonable notice to the occupier, enter upon any land, water or premises situated in the affected area for the purpose of ascertaining -(i) whether there is any plant disease, pest parasite or noxious weed on such land, water or premises; (ii) whether any prohibition or restriction imposed under clause (b) or clause (c) section 3 has been complied with; (iii) whether other preventive or remedial measures specified in clause (i) of sub-section (i) of section 4 have been carried out.

## **7. Power to carry out measures.**

(1) if on inspection of any land, water or premises an Inspecting Officer finds that any prohibition or restriction imposed under clause (b) or clause (c) of section 3 has not been complied with or that the preventive or remedial measures specified under clause (i) of sub-section (i) of section 4 have not been carried out as directed, he may, subject to any general or special order of the District Magistrate and without prejudice to any action that may be taken against the defaulter under section (1) carry out the preventive or remedial measures (including the removal or destruction of plants which are infested or are likely to be infested imposed under clause (b) or clause (c) of section 3 or specified in the notice under clause (i) of sub-section (i) of section 4. as the case may be. (2) The cost of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall on demand be recoverable from him as arrears of land revenue.

## **8. Power to carry out measures in emergent situations.**

(1) Notwithstanding anything contained in section 3, 4, 5, 6, and 7, if the Government is satisfied that plants in any affected area are in danger of being damaged or destroyed by any plant disease, pest, parasite, or noxious weed prevalent in that area and that it is necessary to take immediate preventive or remedial measures, it may by notification in the Government gazette, -(a) declare that it shall be competent for the District Magistrate or any Inspecting officer to carry out such preventive remedial measures in the affected area or any part thereof or to take such other steps (including the removal or destruction of plants which are infested or likely to be infested) as he may deem fit. (b) direct that every remedial occupier in respect of whose land such preventive or remedial measures or other steps have been taken shall be liable to pay the cost thereof at such rate and within such time as the District magistrate may, by order from time to time, determine having regard to the following, namely (i) the charges to be incurred for labour, material or use of, equipment; and (ii) any other charges to be incurred for the purpose aforesaid. (2) Subject to any general or special order of the Government any Inspecting officer may upon the issue of a

notification under sub-section (1), enter upon any land or premises within the affected area and carry out such preventive or remedial measures or take such other steps referred to in clause (a) of sub-section (1), as he may deem fit.(3)The inspecting Officer shall, by order in writing, assess the amount payable by an occupier in respect of the preventive or remedial measure or other steps taken under sub-section (2).(4)If the occupier fails to pay the amount so assessed within time fixed under clause (b) of sub-section (1), the amount shall be recoverable from him as arrears of land revenue.

## **9. Appeal.**

(1)Any occupier aggrieved by an order made under sub-section (2) of section 7 may, within thirty days from the date of service of the order, prefer an appeal to the District magistrate or such other authority as the Government may specify in that behalf on the ground that the charge for labour, material or use of implements are unreasonably high.(2)any occupier aggrieved by an order made under sub-section (3), of section 8 may, within thirty days from the date of service of the order, prefer an appeal to the District Magistrate or such other authority as the Government may specify in that behalf on the ground,-(i)that the assessment of the amount payable has not been made in accordance with the rates fixed by the District magistrate;(ii)that the amount assessed includes charges other than the items mentioned in sub-clauses (i) and (ii) of clause (b) of section (1) of section 8; or(iii)that the charges for labour, material or use of equipment are unreasonably high.(3)On receipt of an appeal under sub-section (1) or sub-section (2), the District Magistrate or other authority as the case may be, shall, after making such enquiry as he may deem fit, and giving the occupier an opportunity of being heard, pass such order thereon as he may deem fit.(4)Every order passed under sub-section (3) shall be final and shall not be called in question in any court of law.

## **10. Contravention of directions issue.**

(1)If a person-(i)Acts in contravention of the prohibition or restriction contained in any notification issued under section 3, or(ii)Acts in contravention of the direction contained in a notice issued under sub-section (1) of section 4 or fails to render assistance having been called upon to do so by notice issued under said sub-section, or(iii)acts in contravention of the declaration or contained in any notification issued under sub-section (1) of section 8, or(iv)obstructs the entry of any person referred to in section 6 or subsection (2) of section 8, or(v)obstructs the carrying out of the preventive or remedial measures under sub-section (1) of section 7 or sub-section (2) of section 8;shall be deemed to have committed an offence under this Act.(2)Any person convicted by a magistrate of an offence specified in sub-section (1) shall be liable to fine not exceeding [two hundred and fifty rupees] [Substituted by Act II of 1976.] or in default to simple imprisonment for period not exceeding ten days.(3)If any person convicted of an offence specified under sub-section (1) commits a like offence afterwards, he shall on conviction be punishable with fine not exceeding [five hundred rupees] [Substituted by Act II of 1976 section 2.] or in default to simple imprisonment for a term not exceeding one month.(4)If a person has been convicted under this section for a contravention of the prohibition or restriction contained in the notification issued under section 3, the plant or soil or manure, in respect of which such contravention has been committed, may also be forfeited to the Government.

## **11. Cognizance of offences.**

- No Magistrate shall take cognizance of an offence under this Act except upon a complaint made by an Inspecting Officer.

## **12. Obligation of Village officers to report plant diseases, pests, etc.**

- All village officers and such other officers, as may be prescribed, of the village adjoining an affected area, shall forthwith report the existence within the village of any plant disease, pests, parasites or noxious weed of the nature specified in the notification issued under section 3 respect of the said area, to the District magistrate who shall, after making such enquiry as he may deem, fit, make a further report to the Government.

## **13. Appointment of inspecting Officers.**

- The Government may, by notification in the Government Gazette, appoint Inspecting Officers for such local areas as may be specified in the notification.

## **14. Bar to suit or other legal proceedings.**

- no suit, prosecution or other legal proceedings shall lie against the Government or any officer in respect of anything done or intended to be done in good faith under this Act or for any damage caused by any action taken in good faith in carrying out the provisions of this Act.

## **15. Delegation of power.**

- The Government may, by notification in the Government Gazette, delegate to any officer or authority all or any of the powers conferred on it under this Act to be exercised subject to such restrictions and conditions as may be specified in the notification.

## **16. Power to make rules.**

- The Government, may after previous publication, make rules for carrying out the purposes of this Act. (2) In particular without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :- (a) the manner in which any notice or order issued or made under this Act is to be served or the conditions under which every such notice or order shall be deemed to have been served; (b) the form in which an appeal under sub-section (1) or sub-section (2) of section 9 shall be filed; (c) the class of officers who are bound to make a report as required under section 12; and (d) all other matters expressly required or allowed by this Act to be prescribed. (3) Rules made under this Act may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees. (4) Every rule made by the Government under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session and if, before the expiry of the session in which it is also laid both Houses agree

in making 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.

## **17. Rule and savings.**

(1)The Plant and Crop Protection Act, 1990 (1 of 1990) is hereby repealed.(2)Notwithstanding such repeal, anything or any action taken under any of the provisions of law so repealed under sub-section (1) shall be deemed to have been done, or taken under this Act.