

Epidemic Diseases (Bihar Amendment) Act, 1960

JHARKHAND

India

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Act 5 of 1961

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Epidemic Diseases (Bihar Amendment) Act, 1960(Bihar Act 5 of 1961)(President's assent first published in the Bihar Gazette, Extraordinary of the 15th March, 1961).An Act to amend the Epidemic Diseases Act, 1897, in its application to the State of Bihar.Be it enacted by the Legislature of the State of Bihar in the Eleventh Year of the Republic of India as follows:-

1. Short title.

- This Act may be called the Epidemic Diseases (Bihar Amendment) Act, 1960.

2. Insertion of new Sections 2-B, 2-C, 2-D, 2-E and 2-F in Act III of 1897.

- After Section 2-A of the Epidemic Diseases Act, 1897 (III of 1897), the following Sections shall be inserted, namely:-

2B. Power of State Government to requisition vehicles. - (1) Whenever it appears to the State Government that for the purpose of facilitating preventive or remedial measures, any vehicle is needed or is likely to be needed, for carrying man and equipments to and from any part of the State which is visited by, or threatened with, an outbreak of any dangerous epidemic disease, or for carrying any person suffering from any infectious disease, it may authorise the District Magistrate or any other officer not below the rank of a Deputy Magistrate by a notification in the suffering from any infectious disease, it may authorise the District Magistrate or any other officer not below the rank of a Deputy Magistrate by a notification in the Official Gazette (hereinafter referred to as the "requisitioning authority"), to requisition any such vehicle ordinarily kept in the district by serving an order

in writing on the owner of such vehicle, or, in his absence, on another persons who has the vehicle under his control. The person on whom such order is served shall deliver possession of the vehicle so requisitioned to the requisitioning authority or to such other person as may be specified in the order.

(2) If any person in possession of the vehicle on whom an order or requisition is served refuses or fails to deliver possession of the vehicle to the requisitioning authority or to the person specified in the order, such authority or any police officer, not below the rank of an Assistant Sub-Inspector, or the Mukhiya or Up-Mukhiya of the Gram Panchayat established, under the Bihar Panchayat Raj Act, 1947, for the area in which the vehicle is kept, authorised by him may use such force as is necessary to take possession of the vehicle. (3) Whenever any vehicle is requisitioned under sub-section (1) the period of such requisition shall not ordinarily extend beyond the period for which such vehicle is required for the purpose mentioned in the said sub-section. Explanation. - For the purposes of Sections 2-B, 2-C, 2-D, 2-E, and 2-F, - (i) 'vehicle' means a motor vehicle, horse drawn carriage, ekka, tamtam, rickshaw, cycle-rickshaw, bullockcart, steamer, steam-boat, motor-launch and boat; and (ii) 'owner' includes where the person in possession of the vehicle is a minor, the guardian of such minor, and in relation to a vehicle which is the subject of a hire-purchase agreement, the person in possession of the vehicle under that agreement.

2C. Principles and method of determining compensation. - (1) Where any vehicle is requisitioned under this Act there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,-

(a) where the amount of compensation can be fixed by agreement it shall be paid in accordance with such agreement; (b) where no such agreement can be reached, the State Government shall appoint an officer not below the rank of an Additional District Judge as arbitrator; (c) the State Government may, in any particular case, nominate a person having expert knowledge as to the nature of the vehicle requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose; (d) at the commencement of the proceeding before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation; (e) the arbitrator in making his award shall take into consideration the loss of earning, if any, sustained by the owner by reason of the requisition the prevalent market rate of hire for the class of vehicle requisitioned and the condition of the vehicle requisitioned; and (f) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section. (2) The State Government may by rules prescribe the procedure to be followed in such arbitrations, the principles to be followed in apportioning the costs of proceedings before the arbitrator and the fees to be paid to experts and assessors appointed under clause (c) of sub-section (1).

2D. Release from requisition. - (1) The State Government or the requisitioning authority may, at any time release any vehicle requisitioned under this Act and shall as far as possible, restore the vehicle after proper disinfection, if necessary, in as good a condition as it was when possession thereof was taken, subject only to the changes caused by normal wear and tear and irresistible force:

Provided that where the purpose for which any requisitioned vehicle was being used ceases to exist, the State Government or the requisitioning authority shall release the vehicle, as soon as may be, from requisition.(2)When any vehicle is to be released from requisition, a notice in writing shall be served on the owner or his authorised agent to take delivery of the vehicle on or within such date and from such place and person as may be specified in the notice and with effect from such date, the State Government or the requisitioning authority shall not in any way be liable for any compensation or other claim in respect of the requisitioned vehicle.(3)The delivery of possession of the vehicle to the owner or his duly authorised agent shall be a full discharge of all liability of the State Government or the requisitioning authority to deliver possession to such person as may have a rightful claim to possession thereof, but shall not prejudice any rights in respect of the vehicle which any other person may be certified in accordance with law to enforce against the person to whom possession of the vehicle is given.(4)Where the owner to whom possession of any requisitioned vehicle is to be given is not found and has no agent authorised to take delivery on his behalf, the State Government shall cause a notice declaring that the vehicle is released from requisition to be published in the Official Gazette and on such publication, the requisitioned vehicle shall cease to be subject to requisition on and from the date of such publication and the State Government shall not be liable for compensation or other claim in respect thereof for any period after the said date.(5)If the owner or his duly authorised agent fails to take delivery of the vehicle on or within the date specified in the notice issued under sub-section (2), the State Government may dispose of the vehicle in the manner laid down in sub-section (6):Provided that the State Government may, if it thinks fit, extend the time under the said notice, but it shall not be liable for any compensation in respect of the vehicle for the extended period.(6)The disposal of vehicle under sub-section (5) shall be by public auction and at the risk of the owner and the sale-proceeds shall be made over to the owner after deducting the expenses incurred by the State Government on account of the owner's failure to take delivery of the vehicle within the time allowed.(7)Where any vehicle requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or other irresistible force, the State Government or the requisitioning authority shall not be liable for the loss occasioned thereby:Provided that benefit of this sub-section shall not be available to the State Government where the injury to such vehicle is caused by any wrongful Act or default of the State Government or any of its officers.

2E. Payment of compensation. - The amount of compensation payable under an award made under Section 2-C shall, subject to any rules made under this Act, be paid to persons entitled thereto in such manner and within such time

as may be specified in the award.

2F. Power of make rules. - (1) The State Government may, subject to previous publication, make rules not inconsistent with the provisions of this Act for carrying out the purposes of this Act.

Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both House 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."