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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 22nd August, 1969/Sravana 31, 1891 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS PLANT DISEASES AND PESTS REGULATION, 1969

No. 3 OF 1969

Promulgated by Shri M. Hidayatullah, discharging the functions of the President, in the Twentieth Year of the Republic of India.

A Regulation to provide for the prevention of the introduction into, or spread or re-appearance in, the Union territory of the Andaman and Nicobar Islands of plant diseases, plant pests, plant parasites and noxious weeds, and for matters connected therewith.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, Shri M. Hidayatullah, discharging the functions of the President, is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Plant Diseases and Pests Regulation, 1969.

(*2*) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.

(*3*) It shall come into force on such date as the Chief Commissioner may, by notification in the Andaman and Nicobar Gazette, appoint.

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(*a*) "affected area" means any area declared as such under section 3;

(*b*) "Chief Commissioner" means the Chief Commissioner of the Union territory of the Andaman and Nicobar Islands;

(*c*) "competent authority" means the officer appointed by the Chief Commissioner to exercise the powers and perform the functions of the competent authority under this Regulation;

(*d*) "Inspecting Officer" means an Inspecting Officer appointed under section 4;

(*e*) "noxious weed" means any weed declared as such under section 3;

(*f*) "occupier" means the person having for the time being the right of occupation of any land, water or premises, or his authorised agent, or any person in actual occupation of the land, water or premises;

(*g*) "plant" includes all horticultural or agricultural crops, trees, bushes, or herbs, and also includes the seeds, fruits, leaves, trunks, roots, barks or cutting or any other part, of a plant;

(*h*) "plant disease" means any disease caused to a plant by fungoid, bacteria, virus, parasite or any other organism, declared as such under section 3;

(*i*) "plant parasite" means any plant or animal carrying on its existence, wholly or in part, on any agricultural crop, plant, tree, bush or herb and declared as such under section 3;

(*j*) "plant pest" means any insect or animal, whether vertebrate or invertebrate, declared as such under section 3 and includes any animal organism;

(*k*) "prescribed" means prescribed by rules made under this Regulation.

Power to declare affected area, plant diseases, plant pests, plant parasites and noxious weeds.

3. Where it appears to the Chief Commissioner that any disease, pest, parasite or weed in any area is injurious to plants or is likely to contaminate water or is obstructive to water-ways, and that it is necessary to take measures to eradicate such disease, pest, parasite or weed, or to prevent its introduction into, or spread or re-appearance in, any area in the Union territory of the Andaman and Nicobar Islands (hereinafter referred to as the "territory"), the Administrator may, by notification in the Andaman and Nicobar Gazette, declare that area to be an affected area for such period as may be specified therein and may, with reference to such area, also—

(*a*) declare that such disease, pest, parasite or weed is a plant disease, plant pest, plant 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, or is likely to be, injurious to other plants; and

(*d*) direct that such other preventive or remedial measures, as the competent authority may consider necessary, to eradicate, destroy or prevent the introduction into, or spread or re-appearance in, the territory of, any plant disease, plant pest, plant parasite or noxious weed, shall be carried out.

Appointment of Inspecting Officers.

4. The Chief Commissioner may, by notification in the Andaman and Nicobar Gazette, appoint such persons as he thinks fit to be Inspecting Officers for the purposes of this Regulation and specify the areas in respect of which each Inspecting Officer shall exercise jurisdiction.

Power to issue directions.

5. (*1*) On or after the issue of a notification under section 3, the competent authority may, by notice,—

(*a*) direct every occupier within the affected area to carry out such preventive or remedial measures (including the removal or destruction of plants which are, or are likely to be, infested) as may be specified in the notice, to eradicate, destroy or prevent the introduction into, or spread or re-appearance in, the territory of, any plant disease, plant pest, plant parasite or noxious weed;

(*b*) call upon any male person, not 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 measures referred to in clause (*a*):

Provided that—

(*i*) no person shall be called upon to render whole-time service for a period exceeding seven days at a time, and, where he has rendered such service, there shall be an interval of not less than ninety days, computed from the day when the previous whole-time service ended, before he is again called upon to render whole-time service; and

(*ii*) no person who is, by reason of old age, physical disability or any other reasonable cause, incapable of rendering assistance, or who resides at a distance of more than eight kilometres from the place where his presence is required for the purpose of rendering assistance, or who lives in an island other than the island in which such place is situated, shall be called upon to render such assistance; and

(*c*) specify the area within which and the period during which the measures referred to in clause (*a*) are to be carried out.

(2) It shall not be necessary to serve notices on every occupier under clause (*a*) of sub-section (*1*) or every other person whose assistance is required under clause (*b*) of the said sub-section, and a proclamation in this behalf made, by beat of drum or other customary mode of publication, in the concerned area, village or locality shall be deemed sufficient notice to all persons residing in that area, village or locality.

Duties of occupier on the issue of notice under section 5.

6. On the issue of a notice under sub-section (*1*) of section 5,—

(*a*) it shall be the duty of every occupier within the affected area to carry out such preventive or remedial measures as may be specified in the notice; and

(*b*) it shall be the duty of every male person residing within the affected area to render assistance in the manner specified in the notice.

Power of Inspecting Officer to enter in or upon any land, water or premises

7. An Inspecting Officer may, after giving reasonable notice to the occupier, enter in or upon any land, water or premises situated in the affected area for the purpose of ascertaining—

(*i*) whether there is any plant disease, plant pest, plant parasite or noxious weed in or on such land, water or premises; and

(*ii*) whether any preventive or remedial measures specified in the notice issued under sub-section (*1*) of section 5 have been carried out.

Power to carry out measures.

8. (*1*) If, on inspection of any land, water or premises, an Inspecting Officer finds that there is any plant disease, plant pest, plant parasite or noxious weed in or on such land, water or premises and that the preventive or remedial measures specified in the notice issued under sub-section (*1*) of section 5 have not been carried out, he may, subject to any general or special orders of the competent authority and without prejudice to any action that may be taken against the defaulter under section 11, carry out such preventive or remedial measures (including the removal or destruction of plants which are, or are likely to be, infested).

(*2*) The Inspecting Officer may, by order, direct an occupier to pay such sum as may be specified in the order, towards the cost of any preventive or remedial measures carried out under sub-section (*1*) and the occupier shall pay the said sum on demand, and if he fails or omits to pay the said sum within such time as may be specified by the Inspecting Officer, the said sum shall be recoverable from him as if it were an arrear of land revenue.

(*3*) The order referred to in sub-section (*2*) shall be served on the occupier in such manner as may be prescribed.

Power to carry out measures in emergent situations.

9. (*1*) Notwithstanding anything contained in section 3 and sections 5 to 8, if the Chief Commissioner is satisfied that plants in any affected area are in danger of being damaged or destroyed by any plant disease, plant pest, plant parasite or noxious weed prevalent or existing in that area and that it is necessary to take immediate preventive or remedial measures, he may, by notification in the Andaman and Nicobar Gazette,—

(*a*) declare that it shall be competent for any Inspecting Officer to carry out such preventive or 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, or are likely to be, infested) as he may deem fit;

(*b*) direct that every occupier in respect of whose land, water or premises 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 Inspecting Officer may, by order, from time to time determine, having regard to the following, namely:—

(*i*) the reasonable charges incurred for labour, material or use of implements; and

(*ii*) any other reasonable charges incurred for the purposes aforesaid.

(*2*) Subject to any general or special order of the Chief Commissioner, any Inspecting Officer may, upon the issue of a notification under sub-section (*1*), enter in or upon any land, water 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 assess the amount payable by an occupier in respect of the preventive or remedial measures carried out or

other steps taken under sub-section (2) and he may, by an order in writing, direct the occupier to pay the sum so assessed.

(4) If the occupier fails to pay the amount so assessed within the time fixed under clause (b) of sub-section (1), or within such further time as may be granted by the Inspecting Officer, the amount shall be recoverable from him as if it were an arrear of land revenue.

(5) Any order referred to in sub-section (1) or sub-section (3) shall be served on the occupier in such manner as may be prescribed.

Appeal.

10. (1) Any occupier aggrieved by an order made under sub-section (2) of section 8 may, within thirty days from the date of service on him of the order, prefer an appeal to the competent authority, on the ground that the charges for labour, material or use of implements, as included in the cost, are unreasonably high.

(2) Any occupier aggrieved by an order made by the Inspecting Officer under sub-section (1) or sub-section (3) of section 9 may, within thirty days from the date of service on him of the order, prefer an appeal to the competent authority on the ground—

(a) that the assessment or determination of the amount payable has not been made in accordance with the rates fixed by the Inspecting Officer; or

(b) that the amount assessed includes charges other than the charges mentioned in sub-clauses (i) and (ii) of clause (b) of sub-section (1) of section 9; or

(c) that the charges for labour, material or use of implements, as included in the cost, are unreasonably high.

(3) On receipt of an appeal under sub-section (1) or sub-section (2), the competent authority shall, after making such inquiry as it may deem fit and after giving the occupier a reasonable opportunity of being heard, pass such order thereon as it may deem fit.

(4) Every order passed under sub-section (3) shall be final.

Penalties.

11. (1) If any person—

(a) acts in contravention of the prohibition or restriction contained in any notification issued under section 3; or

(b) acts in contravention of the direction contained in a notice issued under sub-section (1) of section 5, or fails to render assistance, having been called upon to do so by notice issued under the said sub-section; or

(c) obstructs the entry of the Inspecting Officer under section 7 or sub-section (2) of section 9; or

(d) obstructs the carrying out of the preventive or remedial measures under sub-section (1) of section 8 or sub-section (2) of section 9,

he shall be punishable for the first offence with fine which may extend to fifty rupees, and for the second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

(2) If a person is convicted under this section for the contravention of the prohibition or restriction contained in any notification issued

under section 3, the plant or soil or manure in respect of which such contravention has been made may be forfeited to the Central Government.

Cognizance of offences.

12. No magistrate shall take cognizance of an offence under this Regulation except upon a complaint made by an Inspecting Officer.

Obligation of village officers to report plant diseases, plant pests, etc.

13. All village officers, and such other officers as may be specified in the rules made under this Regulation, of the village or villages adjoining an affected area shall forthwith report the existence within the village or villages of any plant disease, plant pest, plant parasite or noxious weed of the nature specified in the notification issued under section 3 in respect of the said area, to the competent authority, which shall, after making such inquiry as it may deem fit, make a further report to the Chief Commissioner.

Bar of suits or other legal proceedings.

14. No suit, prosecution or other legal proceedings shall lie against the Chief Commissioner, the competent authority or any other officer employed in connection with the affairs of the territory in respect of anything done or intended to be done in good faith under this Regulation or for any damage caused by any action taken in good faith in carrying out the provisions of this Regulation.

Delegation of powers.

15. The Chief Commissioner may, by notification in the Andaman and Nicobar Gazette, delegate to any officer all or any of the powers conferred on him by this Regulation, except the power to make rules under section 16, and any power so delegated shall be exercised by that officer subject to such restrictions and conditions as may be specified in the notification.

Power to make rules.

16. (*1*) The Chief Commissioner may, after previous publication, by notification in the Andaman and Nicobar Gazette, make rules for carrying out the purposes of this Regulation.

(2) In particular, and 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 Regulation is to be served or the conditions under which 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 10 shall be filed;

(*c*) the officers other than village officers who shall make report under section 13; and

(*d*) such other matters as are required to be, or may be, prescribed.

(3) Any rule made under this Regulation may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees.

M. HIDAYATULLAH,
discharging the functions of the President.