

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XXVII of 2020

THE EPIDEMIC DISEASES (AMENDMENT) BILL, 2020

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BILL

further to amend the Epidemic Diseases Act, 1897.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Epidemic Diseases (Amendment) Act, 2020.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 22nd day of April, 2020.

3 of 1897. 5 **2.** In section 1 of the Epidemic Diseases Act, 1897 (hereinafter referred to as the principal Act), in sub-section (2), the words, figures and letters “except the territories which, immediately before the 1st November, 1956, were comprised in Part B States” shall be omitted.

Amendment of
section 1.

Insertion of
new section
1A.

3. After section 1 of the principal Act, the following section shall be inserted, namely:—

Definitions.

‘1A. In this Act, unless the context otherwise requires,—

(a) “act of violence” includes any of the following acts committed by any person against a healthcare service personnel serving during an epidemic, which causes or may cause—

(i) harassment impacting the living or working conditions of such healthcare service personnel and preventing him from discharging his duties;

(ii) harm, injury, hurt, intimidation or danger to the life of such healthcare service personnel, either within the premises of a clinical establishment or otherwise;

(iii) obstruction or hindrance to such healthcare service personnel in the discharge of his duties, either within the premises of a clinical establishment or otherwise; or

(iv) loss or damage to any property or documents in the custody of, or in relation to, such healthcare service personnel;

(b) “healthcare service personnel” means a person who while carrying out his duties in relation to epidemic related responsibilities, may come in direct contact with affected patients and thereby is at the risk of being impacted by such disease, and includes—

(i) any public and clinical healthcare provider such as doctor, nurse, paramedical worker and community health worker;

(ii) any other person empowered under the Act to take measures to prevent the outbreak of the disease or spread thereof; and

(iii) any person declared as such by the State Government, by notification in the Official Gazette;

(c) “property” includes—

(i) a clinical establishment as defined in the Clinical Establishments (Registration and Regulation) Act, 2010;

(ii) any facility identified for quarantine and isolation of patients during an epidemic;

(iii) a mobile medical unit; and

(iv) any other property in which a healthcare service personnel has direct interest in relation to the epidemic;

(d) the words and expressions used herein and not defined, but defined in the Indian Ports Act, 1908, the Aircraft Act, 1934 or the Land Ports Authority of India Act, 2010, as the case may be, shall have the same meaning as assigned to them in that Act.’.

Amendment
of section 2A.

4. In section 2A of the principal Act, for the portion beginning with the words “the Central Government may take measures” and ending with the words “as may be necessary”, the following shall be substituted, namely:—

“the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary.”.

5. After section 2A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 2B.

“2B. No person shall indulge in any act of violence against a healthcare service personnel or cause any damage or loss to any property during an epidemic.”.

Prohibition of violence against healthcare service personnel and damage to property.

6. Section 3 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

Amendment of section 3.

“(2) Whoever,—

(i) commits or abets the commission of an act of violence against a healthcare service personnel; or

(ii) abets or causes damage or loss to any property,

shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(3) Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees.”.

7. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 3A, 3B, 3C, 3D and 3E.

‘3A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Cognizance, investigation and trial of offences.

(i) an offence punishable under sub-section (2) or sub-section (3) of section 3 shall be cognizable and non-bailable;

(ii) any case registered under sub-section (2) or sub-section (3) of section 3 shall be investigated by a police officer not below the rank of Inspector;

(iii) investigation of a case under sub-section (2) or sub-section (3) of section 3 shall be completed within a period of thirty days from the date of registration of the First Information Report;

(iv) in every inquiry or trial of a case under sub-section (2) or sub-section (3) of section 3, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded, and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year:

Provided that where the trial is not concluded within the said period, the Judge shall record the reasons for not having done so:

Provided further that the said period may be extended by such further period, for reasons to be recorded in writing, but not exceeding six months at a time.

Composition of certain offences.	3B. Where a person is prosecuted for committing an offence punishable under sub-section (2) of section 3, such offence may, with the permission of the Court, be compounded by the person against whom such act of violence is committed.	
Presumption as to certain offences.	3C. Where a person is prosecuted for committing an offence punishable under sub-section (3) of section 3, the Court shall presume that such person has committed such offence, unless the contrary is proved.	5
Presumption of culpable mental state.	3D. (1) In any prosecution for an offence under sub-section (3) of section 3 which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.	10
	(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.	
	<i>Explanation.</i> —In this section, “culpable mental state” includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.	15
Compensation for acts of violence.	3E.(1) In addition to the punishment provided for an offence under sub-section (2) or sub-section (3) of section 3, the person so convicted shall also be liable to pay, by way of compensation, such amount, as may be determined by the Court for causing hurt or grievous hurt to any healthcare service personnel.	20
	(2) Notwithstanding the composition of an offence under section 3B, in case of damage to any property or loss caused, the compensation payable shall be twice the amount of fair market value of the damaged property or the loss caused, as may be determined by the Court.	
	(3) Upon failure to pay the compensation awarded under sub-sections (1) and (2), such amount shall be recovered as an arrear of land revenue under the Revenue Recovery Act, 1890.’.	25 1 of 1890.
Repeal and savings.	8. (1) The Epidemic Diseases (Amendment) Ordinance, 2020 is hereby repealed.	Ord. 5 of 2020.
	(2) Notwithstanding such repeal, anything done or any action taken under the Epidemic Diseases Act, 1897, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act.	30 3 of 1897.

STATEMENT OF OBJECTS AND REASONS

The Epidemic Diseases Act, 1897 was enacted to provide for better prevention of the spread of dangerous epidemic diseases. The Act empowers the Central Government and the State Government to take measures and prescribe regulations whenever there is a threat or outbreak of any dangerous epidemic disease.

2. During the current COVID-19 pandemic, there have been instances where the healthcare service personnel, who are at the forefront of fighting such disease, have been stigmatized and ostracized, besides being targeted and attacked by miscreants. Such incidences have resulted in deeply hurting the morale of healthcare service personnel, thereby obstructing them from performing their duties, and consequently, the entire effort at containing COVID-19 pandemic has suffered due to such attacks on healthcare service personnel, their property and healthcare facility.

3. Though State Governments have enacted special laws to give protection to doctors and other medical personnel, the provisions contained therein are focused more towards physical violence at workplaces and the penal provisions thereof are not stringent enough to deter such mischief being committed. The Epidemic Diseases Act, 1897 also does not provide effective deterrence to such acts of violence or harassment meted out to healthcare service personnel. Therefore, in order to curb such unprecedented acts of violence, including physical and mental harassment and damage to property during COVID-19 pandemic, there was an urgent need to have a law in place that provides protection to healthcare service personnel.

4. As the Parliament was not in session and an urgent legislation was required to be made in this regard, the President promulgated the Epidemic Diseases (Amendment) Ordinance, 2020 on the 22nd day of April, 2020 under clause (1) of article 123 of the Constitution.

5. The Epidemic Diseases (Amendment) Bill, 2020 which seeks to replace the Epidemic Diseases (Amendment) Ordinance, 2020 (Ord. 5 of 2020) provides for —

(i) conferment of concurrent powers upon the Central Government as that of the State Government to take any measures to prevent the outbreak of an epidemic or the spread thereof;

(ii) enlarging the scope of section 2A by empowering the Central Government to regulate the inspection of any bus, train, goods vehicle, ship, vessel, or aircraft leaving or arriving at any land port, port or aerodrome, in the territories to which the said Act extends and detention of any person wherever necessary;

(iii) stringent provisions to act as effective deterrents as under:—

(a) making acts of violence cognizable and non-bailable offence;

(b) commission or abetment of acts of violence shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees;

(c) for causing grievous hurt, punishment shall be with imprisonment for a term which shall not be less than six months, but which may extend to seven years, and with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees;

(d) in addition, the person convicted shall also be liable to pay compensation to the victim, and twice the amount of fair market value of the damaged property or the loss caused, as determined by the Court;

(iv) expeditious conclusion of investigation and trial by providing that offences shall be investigated by an officer of the rank of Inspector within a period of thirty days, and trial to be completed within one year, unless extended by the court for reasons to be recorded in writing.

6. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;

DR. HARSH VARDHAN.

The 5th August, 2020.

ANNEXURE

EXTRACT FROM THE EPIDEMIC DISEASES ACT, 1897

(3 OF 1897)

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1. (1)	*	*	*	*
(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.				
*	*	*	*	*
2A. When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take measures and prescribe regulations for the inspection of any ship or vessel leaving or arriving at any port in the territories to which this Act extends and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.				Powers of Central Government.
45 of 1860.	3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.			
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RAJYA SABHA

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further to amend the Epidemic Diseases Act, 1897.

*(Dr. Harsh Vardhan, Minister of Health and Family Welfare; Minister of Science and
Technology; and Minister of Earth Sciences)*