

The Goa Public Health (Amendment) Bill,
2022

(Bill No. 43 of 2022)

A

BILL

further to amend the Goa Public Health Act,
1985 (Act No. 25 of 1985)

Be it enacted by the Legislative Assembly
of Goa in the Seventy-third Year of the
Republic of India as follows:—

1. *Short title and commencement.*— (1) This
Act may be called the Goa Public Health
(Amendment) Act, 2022.

(2) It shall come into force at once.

2. *Amendment of section 40.*— In section
40 of the Goa Public Health Act, 1985 (Act
No. 25 of 1985) (hereinafter referred to as the
“principal Act”), in sub-section (6), for the
expression “simple imprisonment for a term
which may extend to 30 days or with fine
which may extend to Rs. 5000/-, or with
both”, the expression “fine which may
extend to Rs. 25,000/-” shall be substituted.

3. *Amendment of section 50E.*— In section
50E of the principal Act, for the expression
“imprisonment which may extend to three
months or with fine which may extend to
Rs. 5000/-, or with both”, the expression “fine
which may extend to Rs. 25,000/-” shall be
substituted.

4. *Amendment of section 71.*— In section 71
of the principal Act, in sub-section (3), in
clause (b), for the expression “imprisonment
which may extend to three months, or with fine
or with both”, the expression “fine which may
extend to Rs. 25,000/-” shall be substituted.

5. *Amendment of section 87 F.*— In section
87 F of the principal Act, for the expression
“imprisonment for a term which shall not be
less than six months, but which may extend
to three years and with a fine which shall not
be less than ten thousand rupees”, the

expression “a fine which shall not be less than
ten thousand rupees, but which may extend
to Rs. 25,000/-” shall be substituted.

6. *Amendment of section 94C.*— In section
94C of the principal Act, for the expression
“liable to punishment with imprisonment for
a term which may extend to six months or a
fine which may extend to Rs. 50,000/- or both”,
the expression “punishable with a fine which
may extend to Rs. 50,000/-” shall be
substituted.

7. *Amendment of section 111.*— In section
111 of the principal Act, for the expression
“imprisonment which may extend to one year
or with fine which may extend to one
thousand rupees or with both”, the expression
“fine which may extend to one thousand
rupees” shall be substituted.

Statement of Objects and Reasons

The Bill seeks to amend sections 40, 50E,
71, 87F, 94C and 111 of the Goa Public Health
Act, 1985 (Act No. 25 of 1985) so as to
decriminalize the provisions contained therein
in order to eliminate the risk of imprisonment
for citizens for minor violations.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this
Bill.

Memorandum Regarding Delegated
Legislation

No delegated legislation is envisaged in this
Bill.

Porvorim-Goa. VISHWAJIT RANE
Dated: 22-07-2022. Hon'ble Minister for
Health.

Assembly Hall. NAMRATA A. ULMAN
Porvorim, Goa. Secretary to the Legislative
Dated: 22-07-2022. Assembly of Goa

ANNEXURE

**Extract of sections 40, 50, 71, 87F, 94C and
111 of the Goa Public Health Act, 1985
(Act No. 25 of 1985)**

Section 40

40. Power of Health Officer to abate nuisance.—

(1) If the Health Officer is satisfied, whether upon information received under section 39 or otherwise, of the existence of a nuisance, he shall be duty bound to issue a notice, within a period of seven days from the date of receipt of such information or date of knowledge of the existence of such nuisance, as the case may be, requiring the person who is responsible for such nuisance or by whose act, default or sufferance or thing the nuisance arises or continues, and/or if that person cannot be found, the owner or occupier of the premises in respect of which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose, within a period as may be fixed in the notice, not exceeding sixty days in any case:

Provided that, the Health Officer, for reasons to be recorded in writing, and upon the application in writing by such person to whom such notice is issued, may extend the period specified in such notice, by a further period of fifteen days, in the facts and circumstances of the case.

(2) The officer-in-charge of the police station of the area concerned shall be duty bound and responsible, when called upon by the concerned Health Officer or such other officer as authorised by the Directorate of Health Services, to provide necessary police protection for removal and/or to ensure removal of such nuisance and shall also provide all possible assistance for removal of such nuisance. The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Health Officer or by such other person as specified in this sub-section.

(3) The directions as contained in the notice under sub-section (1) shall have effect, notwithstanding anything contained in any other law for the time being in force or any custom or usage or decree or order of a Court, or any agreement or contract, express or implied, as far as they are not inconsistent with the provisions of this section.

(4) The issuance of the notice under sub-section (1) to a person, as an occupier of any premises, shall not create any legal right, title or interest in such

person, in respect of such premises, if such person is not the owner of such premises as the notice issued is only for creating the liability of abatement of nuisance or execution of any work or to take such steps as may be directed under sub-section (1).

(4-A) Notwithstanding anything contained in sub-section (5), if any person, whether owner or occupier of any premises, to whom a notice is issued by the Health Officer under sub-section (1), fails to comply with the directions given therein within the specified period or within the extended period, as the case may be, and the nuisance is caused due to improper drainage or due to overflowing of septic tanks, etc., the owner or occupier of the premises shall be liable to pay a fine of rupees five hundred per day till such time the nuisance is abated or the occurrence thereof is stopped.

(ii) in sub-section (5), after the first proviso, the following proviso shall be inserted, namely:—

Provided further that the Health Officer, after giving due notice to the defaulter, may request the Electricity Department or the Public Works Department, as the case may be, to disconnect the electricity or water supply to the premises or place in respect of which the nuisance arose or continues and the Electricity Department or the Public Works Department to whom such request is made shall forthwith disconnect said supply and such disconnection shall continue till the nuisance is removed to the entire satisfaction of the Health Officer.

(5) If any person, owner or occupier of any premises, to whom a notice is issued by the Health Officer under sub-section (1), fails to comply with the directions given therein, within the specified period or within the extended period, as the case may be, the Health Officer shall himself execute any work or take such steps, which he may consider necessary, to abate the nuisance and to prevent the recurrence thereof:

Provided that, any expenses incurred or loss suffered on account of execution of any work or steps taken by the Health Officer, for abatement of nuisance under this sub-section, shall be recovered from the person to whom the notice under sub-section (1) was issued, as arrears of land revenue.

(6) The failure to comply with the directions contained in the notice issued under sub-section (1) shall be cognizable offence, punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5000/-, or with both:

Provided that the said offence may be compounded by the Health Officer, if the offender agrees to pay a fine of Rs. 3,500/-.

(7) In case of any nuisance arising in respect of the premises belonging to the Government, the officer-in-charge of the said premises or Head of office, as the case may be, shall be liable personally to be issued a notice under sub-section (1) as also for the penalty specified in sub-section (6) :

Provided that if the Health Officer himself is the office-in-charge of such premises or Head of office, the provisions of sub-section (1) shall not be applicable to him although he shall be duty bound and liable to abate the nuisance within a period of eight days from the date of knowledge of the existence of nuisance.

(8) If the Health Officer, after receiving the information of any nuisance, either under section 39 or upon his own knowledge, intentionally or deliberately, fails or neglects, to take any action as provided for, in sub-section (1), (5) or (7) as the case may be, within the period specified thereto, he shall be liable for payment of fine at the rate of at least Rs. 50/- per day and which may extend to Rs. 5000/-, upon conviction by the Judicial Magistrate First Class, after a complaint at that regard is filed by any person aggrieved by a nuisance.

Section 50E

50E— *Penalty for operating ambulance van without permit.*— Whoever operates or causes or allows to operate an ambulance van in contravention of the provisions of section 50-A, shall be punishable with imprisonment which may extend to three months or with fine which may extend to Rs. 5000/-, or with both.

Section 71

71. *Power of Government to confer special powers on officers to control notified disease.*— (1) (a) In the event of the prevalence or threatened outbreak of a notified disease in any place or area, Government may declare that such place or area is visited by or threatened with, an outbreak of such disease.

(b) The power conferred on the Government by clause (a) may also be exercised, in the case of a place or area situated in a district, by the Collector of the district subject to the control of the Government.

(c) Any declaration made by the Government under clause (a) or withdrawal thereof in whole or in part shall be published in the Official Gazette and

shall come into operation on the date of such publication.

(d) Any declaration made by the Collector under clause (b) or withdrawal thereof in whole or in part shall be published in the Official Gazette and shall come into operation on the date of such publication.

(2) When a declaration under clause (a) or clause (b) of sub-section (1) comes into operation, and until withdrawn, the Collector or any person duly authorised by him by general or special order, or if empowered in this behalf by rules made under this Act, the Health Officer or any other officer of the Government other than the Collector may, subject to such exceptions, restrictions, limitations and conditions as may be prescribed either generally or in the case of the notified disease to which the declaration relates, exercise the following powers, namely:—

(a) power to order the evacuation of infected houses and houses adjoining them or in their neighbourhood, or generally of all houses in an infected locality;

(b) power to make vaccination and preventive inoculations compulsory subject to the provisions of sub-section (3);

(c) power to direct —

(i) that persons arriving from places outside the local area, or residing in any building, adjacent to, or in the neighbouring of, an infected building, shall be examined by any specified medical officer or by any one of a specified class of medical officers;

(ii) that the clothing, bedding or other articles belonging to such persons shall be disinfected, if there is reason to suspect that they have been exposed to infection; and

(iii) that any such person shall give address and present himself daily for medical examination at a specified time and place, for a period not exceeding ten days;

(d) power to take such measures as may be necessary in respect of, or in relation to, articles exposed to infection from any notified disease, or likely to infect persons with any such disease, including (i) the placing or restrictions on the movements of such persons, and (ii) the destruction of such articles and the placing of restrictions on their export from, import into, or transport within the local area;

(e) power to direct that any consignment of grain exported into such area by rail, road or otherwise, shall be examined and, if necessary unloaded and disinfected in any specified manner;

(f) power to close all or any existing markets and to appoint special places where markets may be held; and

(g) power to direct the local authorities to take such measures as may be necessary in respect of cattle within local area;

(3) (a) If any person who, or a child in whose care, is sought to be vaccinated or inoculated in pursuance of the power referred to in clause (b) of sub-section (2) declare before a Magistrate specially empowered by the Government in this behalf that as a result of a careful inquiry into the subject, he believes that such vaccination or inoculation, will be injurious to his health or the health of the child, as the case may be, the Magistrate may, after giving notice to the Health Officer and hearing any representation by him or on his behalf exempt such person or child from vaccination or inoculations, on such person aforesaid undertaking to subject himself and the members of his family to isolation of such description and for such period and to such further restrictions, if any, as may be, directed by the Magistrate:

Provided that any exemption granted under this clause shall cease to have effect after a conviction under clause (b) and no exemption, shall be granted to any person who has been so convicted.

(b) Any person who commits a breach of any undertaking given by him under clause (a) shall be punished with imprisonment which may extend to three months, or with fine or with both.

(4) The local authority may, in its discretion give compensation to any person who, in its opinion has

sustained substantial loss by the destruction of any property under the powers conferred by this section but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Section 87F

87F. *Penalty.*— Whoever contravenes the provisions of this Chapter shall, on conviction, be punishable with imprisonment for a term which shall not be less than six months, but which may extend to three years and with a fine which shall not be less than ten thousand rupees.

Section 94C

94C. *Punishment for non-compliance with order under section 94A.*— Any person or statutory functionary or other functionaries or the principal officer of any authority or local body, responsible for complying with the order under section 94A, disobeying or not complying forthwith, or abetting violation of any orders under section 94A shall, on a trial by a Magistrate, be liable to punishment with imprisonment for a term which may extend to six months or a fine which may extend to Rs. 50,000/- or both.

Section 111

111. *Punishment for malicious abuse of powers.*— Any local authority or any officer or servant of a local authority or of the Government, or any person appointed under section 11 of this Act, who maliciously abuses any powers conferred on him by or under this Act shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Explanation.— No prosecution shall be instituted under this section without the previous sanction of the Government.

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