



# drishti

## Ordinance to Protect Health Workers

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### Why in News

The President has given his assent to an ordinance passed to amend the **Epidemic Diseases Act, 1897**.

### Key Points

- **Wider Inclusion:** The amendments intend to protect the health workers from **harassment by the public**. The amendments will also apply to **harassment by landlords and neighbours**.
- **Cognizable and Non-bailable:** Violence against medical staff has been made a cognizable and non-bailable offence.
- **Compensation:** Provision for compensation for injury to healthcare personnel or for damage or loss to property.  
If damage was done to vehicles or clinics of healthcare workers, a compensation amounting to twice the market value of the damaged property would be **charged from the accused**.
- **Timely Investigation:** In cases of attacks on healthcare workers, the **investigation will be completed within 30 days and the final decision arrived within one year**.
- **Umbrella Protection:** The ordinance will **protect the whole healthcare fraternity, including doctors, nurses and ASHA workers from violence during epidemics**.
- **Punishment :** The punishment for such attacks will be **3 months to 5 years** and the **fine ₹50,000 to ₹2 lakh**.  
In severe cases, where there are grievous injuries, the punishment will be **6 months to 7 years and the fine ₹1 lakh to ₹5 lakh**.

### Cognisable Offences

- In cognisable offences, an officer can take cognizance of and arrest a **suspect without seeking a court's warrant** to do so, if she has "reason to believe" that the person has committed the offence and is satisfied that the arrest is necessary on certain enumerated bases.
- According to the **177<sup>th</sup> Law Commission Report**, cognisable offences are those that require an immediate arrest.
- Within 24 hours of the arrest, the officer must have detention ratified by a judicial magistrate.
- Cognizable offences are generally heinous or serious in nature such as murder, rape, kidnapping, theft, dowry death etc.
- The first information report (FIR) is registered only in cognizable crimes.

### Non-Cognizable Offences

- In case of a non-cognizable offence, the police **cannot arrest the accused without a warrant** as well as cannot start an investigation without the permission of the court.
- The crimes of forgery, cheating, defamation, public nuisance, etc., fall in the category of non-cognizable crimes.

## Background

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- **Need:** Healthcare workers are being portrayed as potential spreaders of **Covid-19 pandemic**. Public venting of angst against healthcare service personnel leading to harassment assault and damage to property is being highlighted daily. Therefore, the medical community has been demanding protection.
- **Unique Challenge:** The Covid-19 outbreak has posed a unique situation where **harassment of the healthcare workforce** and others working to contain the spread of the disease has been taking place at all fronts, in various places, including in cremation grounds.
- **Deficiency in State laws:**
  - Several States had enacted special laws to offer protection to doctors and other medical personnel in the past. However, these existing State laws do **not have such a wide ambit**.
  - They generally **do not cover harassment at home and workplace** and are focussed more on physical violence.
  - The **penal provisions** contained in these laws are **not stringent enough to deter mischief-mongering**.

### Ordinance

- Ordinance is a decree or law promulgated by a state or national government **without the consent of the legislature**.

- **Article 123 of the Constitution of India grants the President** certain law-making powers to promulgate ordinances when either of the two Houses of Parliament is not in session.
- Similar powers are given to the Governor of a state to issue ordinances under **Article 213 of the Constitution.**
- There are **three limitations** with regard to the ordinance making power of the executive. They are:
  - The President can only promulgate an ordinance when **either of the two Houses of Parliament is not in session.**
  - The **President cannot promulgate an ordinance unless he is satisfied** that there are circumstances that require taking 'immediate action'.
  - Ordinances **must be approved by Parliament within six weeks of reassembling** or they shall cease to operate. They will also cease to operate in case resolutions disapproving the ordinance are passed by both the Houses.

### **Epidemic Diseases Act, 1897**

- The Epidemic Diseases Act initially was passed in February 1897 in the **wake of the outbreak of the bubonic plague in India** (particularly in the Bombay presidency).
- The Act aims to provide for the better **prevention of the spread of Dangerous Epidemic Diseases.**
- It **empowers the state and central government to take special measures** and prescribe regulations that are to be observed by the public to contain the spread of disease.
- It also makes disobedience of any regulation or order made under this Act a **punishable offence.**
- It provides for the **protection of persons or officials acting under this Act** as no suit or other legal proceeding can be initiated against any person for anything done or in good faith intended to be done under this Act.

**Source: TH**