

Client Alert

The legal framework for the management of epidemics and health emergencies

Besides the medical challenges, the pandemic influenza has also focused spotlight on the legalities of actions for tackling with it. Being highly contagious in nature, COVID-19 has made social distancing and self-quarantine a civic responsibility as well as a statutory requirement. Several orders have been issued by the central and state governments in relation to checking the spread of the COVID-19 pandemic, wherein the respective states have started prosecuting the persons for non-observance of the said requirements.

The main central legislation for the prevention and spread of dangerous epidemic diseases in India is the Epidemic Diseases Act, 1897 (“**EDA**”). The EDA gives the government power to take special measures and prescribe regulations as to dangerous epidemic diseases. These powers are to be exercised when at any time a government is satisfied that the country or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, and the government, thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose. Upon such satisfaction, state governments may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it deems necessary to prevent the outbreak of such disease or the spread thereof.

States have enacted laws and regulations in exercise of powers conferred under relevant provisions of the EDA. Some of the central and state laws and regulations, which are enforced in case of a health emergency and related issues in India are Delhi Epidemic Diseases (COVID-19) Regulations, 2020, Haryana COVID-19 Regulations, 2020, Maharashtra Epidemic Diseases (COVID-19) Regulations, 2020, Telangana Epidemic Diseases (COVID-19) Regulations, 2020, Essential Commodities Act 1955, National List of Essential Medicines (NLEM), 2011, Indian Port Health Rules 1955 (made pursuant to the Indian Port Act, 1908), respective state public health laws and the like, which give power to the government to take the necessary measures to ensure orderly public life and relief during a health emergency.

The National Disaster Management Authority (“**NDMA**”) was established as per the provisions of the Disaster Management Act, 2005 (“**DMA**”). The NDMA is mandated to lay down the policies, plans and guidelines for disaster management to ensure timely and effective response to disasters in India. The NDMA, being satisfied that India is threatened by the COVID-19 epidemic, issued an order on March 24, 2020 directing the central and state governments and authorities to take measures, to be in force for a period of 21 days, to ensure social distancing and issue guidelines under the applicable provisions of the DMA. Subsequently, the Ministry of Home Affairs, Government of India, issued an order to central and state ministries and departments containing guidelines for their strict implementation. The said order will remain in force in all parts of India for 21 days, with effect from March 25, 2020.

Pursuant to the said order, India is under lockdown.

While states are trying to execute the quarantine protocols strictly, any non-observance, such as jumping quarantine or unlawful assembly, may invoke penal provisions and attract punishment

under the India Penal Code, 1860 (the ‘**IPC**’). Persons¹ are obligated to follow all the orders/ instructions as issued by the concerned authorities empowered by the **EDA** and other applicable laws.

Having stated above, a person can be charged under the IPC and the DMA for committing, *inter alia*, any of the following offences:

S. No.	Offence	Charging sections under IPC and other applicable laws	Punishment
1.	Negligent act likely to spread infection of disease dangerous to life	Section 269 of IPC	Imprisonment for a term up to six (6) months, or with fine, or with both. <i>Bailable</i>
2.	Malignant act likely to spread infection of disease dangerous to life	Section 270 of IPC	Imprisonment for a term up to two (2) years, or with fine, or with both. <i>Bailable</i>
3.	Disobedience of quarantine protocols	Section 271 of IPC	Imprisonment for a term up to six (6) months, or with fine or with both. <i>Bailable</i>
4.	Violation of order under Section 144 of the Code of Criminal Procedure, 1973 (CrPC)	Section 146 of IPC	Imprisonment of either description for a term which may extend to two (2) years, or with fine, or with both. <i>Bailable</i>
5.	Disobedience to order duly promulgated by public servant causing of tending to cause obstruction, annoyance or injury to persons lawfully employed	Section 188 of IPC read with Section 3 of EDA	Imprisonment for a term up to one (1) month, or with fine which may extend to Indian Rupees Two Hundred (INR 200), or with both. <i>Bailable</i>
6.	Disobedience to order duly promulgated by public servant causing of tending to cause such danger to	Section 188 of IPC read with Section 3 of EDA	Imprisonment for a term up to six (6) months, or with fine up to Indian Rupees One Thousand (INR 1,000), or with both. <i>Bailable</i>

¹ As per section 11 of IPC, the word “person” includes any company or association or body of persons, whether incorporated or not.

	human life, health or safety, etc.		
7.	Disobedience to order duly promulgated by public servant	Section 51(b) of DMA	Imprisonment for a term up to one (1) year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two (2) years. <i>Bailable</i>
8.	False claim made for obtaining any relief etc. (viz. economic packages introduced by the appropriate government) consequent to the disaster	Section 52 of DMA	Imprisonment for a term which may extend to two (2) years, and also with a fine. <i>Bailable</i>
9.	Misappropriation of money or materials etc. meant for providing relief in case of a disaster	Section 53 of DMA	Imprisonment for a term which may extend to two (2) years, and also with a fine. <i>Bailable</i>
10.	Making or circulating a false alarm or warning as to a disaster or its severity or magnitude, leading to panic	Section 54 of DMA	Imprisonment which may extend to one (1) year, or with a fine. <i>Bailable</i>
11.	Disobedience to order duly promulgated by public servant	Section 58 of DMA (Offence by companies)	Same as above

About Chadha & Co.

Chadha & Co. is a leading corporate and commercial law firm based in New Delhi, India. The Firm has a specialized inbound practice in advising domestic and foreign corporations doing business in India on all Indian laws and regulations that are relevant to their business.

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