

Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968

12 of 1969

[02 June 1969]

CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Temporary Release Of Prisoners On Certain Grounds
4. Temporary Release Of Prisoners On Furlough
5. Exclusion Of Certain Days In Computing Period Under Sections 3 And 4
6. Prisoners Not Entitled To Be Released In Certain Cases
- 7 . Journey Expenses Of Poor Prisoners To Be Borne By The Government
- 8 . Liability Of Prisoner To Surrender On Expiry Of Release Period And Consequences Of Overstaying
9. Penalty For Failure To Surrender
10. Power To Make Rules
11. Repeal And Savings

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Amended, repealed or otherwise affected by,- (i) A.O.1973, published in R.H.P. Extra., dated the 20th January, 1973 at p.91-112. An Act to provide for the temporary release of prisoners for good conduct on certain conditions. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:- 1. For statement of Objects and Reasons see R.H.P.Extra., dated the 30th November, 1966 at p. 1180 and for its authoritative Hindi text see R.H.P.Extra., dated 29.6.1991, p. 1509.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Himachal Pradesh Good Conduct

Prisoners (Temporary Release) Act, 1968.

(2) It extends to the whole of the 1[State of Himachal Pradesh].

(3) It shall come into force on such date² as the Government may, by notification, in the Official Gazette, appoint.

1 Subs. for "Union territory of Himachal Pradesh" by A.O. 1973.

2. The Act enforced w.e.f. 1.9.1971, vide Not. No.2-45/71-jails (Sectt.), dated 17.8.1971, published in R.H.P.Extra., dated 23.8.1971, p. 1120.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "District Magistrate" means the District Magistrate of the District within whose jurisdiction the prisoner, after his temporary release under this Act, is likely to reside during the period of his release;

(b) "Government" means the Government of Himachal Pradesh;

(c) "member of prisoners family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner;

(d) "notification" means notification, published under proper authority, in the Official Gazette;

(e) "Official Gazette" means the Rajpatra, Himachal Pradesh;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "prisoner" means a person confined in prison under a sentence of imprisonment;

(h) "Superintendent of Jail" means the Superintendent of the jail in which the prisoner is undergoing his sentence of imprisonment.

3. Temporary Release Of Prisoners On Certain Grounds :-

(1) The Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the Government is satisfied that,-

(a) a member of the prisoners family has died or is seriously ill; or

(b) the marriage of the prisoners son or daughter is to be celebrated ; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of the prisoners family is prepared to help him in this behalf in his absence; or

(d) it is desirable so to do for any other sufficient cause

(2) The period for which a prisoner may be released shall be determined by the Government so as not to exceed,-

(a) Where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), two weeks;

(b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and

(c) where the prisoner is to be released on the ground specified in clause (c) of sub-section (1), six weeks.

(3) The period of release under this section shall not count towards the total period of the sentence of a prisoner.

(4) The Government may, by notification, authorise any officer to exercise its power under this section in respect of all or any of the grounds specified therein.

4. Temporary Release Of Prisoners On Furlough :-

(1) The Government or any other officer authorised by it in this behalf may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily, on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than five years, and who-

(a) has, immediately before the date of his temporary release, undergone imprisonment for a period of three years, excluding remission;

(b) has not during such period committed any jail offence and has earned at least three annual good conduct remissions:

Provided that nothing herein shall apply to a prisoner who-

(i) is a habitual offender as defined in 1[clause (d) of section 2 of the Himachal Pradesh Habitual Offenders Act, 1969 (Act No. 8 of 1970)]; or

(ii) has been convicted of robbery or dacoity or such other offence as the Government may, by notification, specify.

(2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter.

(3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence of a prisoner.

1 Subs. for "clause (3) of section 2 of the Punjab Habitual Offenders (Control and Reform) Act, 1952" by A.O. 1973.

5. Exclusion Of Certain Days In Computing Period Under

Sections 3 And 4 :-

For the purpose of calculating the period of temporary release of a prisoner under sections 3 and 4, the days of departure from and arrival at the prison shall be excluded.

6. Prisoners Not Entitled To Be Released In Certain Cases :-

Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

7. Journey Expenses Of Poor Prisoners To Be Borne By The Government :-

If, on the report of the District Magistrate, the Government is satisfied that a prisoners family cannot bear the expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the Government to such extent and in such manner as may be prescribed.

8. Liability Of Prisoner To Surrender On Expiry Of Release Period And Consequences Of Overstaying :-

(1) On the expiry of the period for which a prisoner is released under this Act, he shall surrender himself to the Superintendent of the jail from which he was released.

(2) If a prisoner does not surrender himself as required by subsection (1) within a period of ten days from the date on which he should have so surrendered, he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

(3) If a prisoner surrenders himself to the Superintendent of the jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the Superintendent of the jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the

Superintendent of the jail, namely,-

- (a) a maximum cut of five days remission for each day of overstay;
- (b) stoppage of canteen concession for a maximum period of one month;
- (c) withholding concession of either interviews or letters or both for a maximum period of three months;
- (d) the period of temporary release on furlough of the prisoner under section 4 shall not be counted towards his sentence;
- (e) warning; and
- (f) reduction from the status and grade of "Convict Watchman" or "Convict Overseer".

9. Penalty For Failure To Surrender :-

Any prisoner who is liable to be arrested under sub-section (2) of section 8, shall be punishable with imprisonment of either description which may extend to two years or with fine or with both.

Explanation.- The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

10. Power To Make Rules :-

(1) The Government may, by notification, make rules¹ for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for , -

- (a) the execution by the prisoner (including his sureties) of bond for his good behaviour during the release period and for his surrender on the expiry of such period;
- (b) the amount for which and the form and manner in which such bonds shall be furnished;
- (c) the forfeiture of the amount of bond in case of breach of any of its terms;
- (d) the conditions on which and the manner in which prisoners may be released temporarily under this Act;
- (e) the manner in which the District Magistrate shall be consulted before a prisoner is released; and
- (f) the extent to which and the manner in which journey expenses of poor prisoners shall be borne by the Government.

(3) All rules under this section shall, as soon as may be after they are made, be laid before the Legislative Assembly.

1. The rules made vide Not. No. 1-9/69.Home(Jails) dated the 1st December, 1969 (Appended).

11. Repeal And Savings :-

The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (Act No. 11 of 1962) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (Act No. 31 of 1966) is hereby repealed:

Provided that anything done or any action taken under the said Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.