

Goa Maintenance Of Public Order And Safety Act, 1988

21 of 1988

[19 September 1988]

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Goa Maintenance Of Public Order And Safety Act, 1988

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AN ACT to provide for the maintenance of public order and safety in the State of Goa. Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Goa Maintenance of Public Order and

Safety Act, 1988.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,-

(a) "district" means a territorial division constituting a district for the purpose of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) ;

(b) "place" includes a house, building, vehicle, a tent, a booth or other erection, whether permanent or temporary, or any area whether enclosed or open;

(c) "person" includes any Company or association, or body of persons whether incorporated or not;

(d) "State Government" means the Government of Goa.

3. . Dispersal Of Gangs And Bodies Of Persons :-

Whenever it appears to the District Magistrate, District Superintendent of Police or the Sub-Divisional Magistrate specially empowered by the State Government in that behalf, to exercise powers within the jurisdiction, that the movement or encampment of any gang or body of persons in any area of his jurisdiction, is causing or is calculated to cause danger to person or property or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body of persons or by members thereof, such officer may by order addressed to the persons appearing to be the leaders or chiefmen of such gang or body of persons and published or by announcement, or otherwise as such officer thinks fit, direct the members of such gang or body of persons,-

(i) to so conduct themselves as shall seem necessary in order to prevent violence and alarm; or

(ii) to disperse and each of them to remove himself outside the area within the local limits of his jurisdiction or such area, and any district or districts or any part thereof, contiguous thereto within such time as such officer shall specify and not to enter the area or part thereof, as the case may be, or return to the place from which each of them was directed to remove himself or from which they were directed to remove themselves, as the case may be.

4. Removal Of Persons About To Commit Offence :-

Whenever it appears to the District Magistrate, or the Sub-Divisional Magistrate specially empowered by the State

Government in that behalf, to exercise powers within his jurisdiction that-

(a) the movements or acts of any person are causing or are calculated to cause alarm, danger, or harm to person or property; or

(b) there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter VIII, Chapter XV, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act 45 of 1860), or under section 290 or sections 489-A to 489-E (both inclusive) of that Code or in the abetment of any such offence; or

(c) such person -

(i) is so desperate and dangerous as to render his being at large in the area of his jurisdiction or any part thereof hazardous to the community; or

(ii) has been found habitually intimidating other persons by acts of violence or by show of force; or

(iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or

(iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures; or

(v) in the opinion of such officer, witnesses are not willing to come forward to tender evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property; or

(vi) there are reasonable grounds for believing that such person is acting or is about to act -

(1) in any manner pre-judicial to the maintenance of public order; or

(2) an outbreak of epidemic or disease is likely to result from the continued residence of an immigrant; the said officer may, by the order in writing duly served on such person, or otherwise as he thinks fit, direct such person or immigrant to so conduct himself as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease, to remove himself outside the area or areas within the local limits of his jurisdiction or such area and any district or districts or any part thereof contiguous thereto by such route, and with such time, as he may specify and not to enter or return to the area or areas (hereinafter referred to as the "specified area or areas") from which he was directed to remove

himself.

(2) An officer directing any person under sub-section (1) to remove himself from any specified area or areas in the State of Goa may further direct such person that, during the period the order made against him is in force, as and when he resides in any other area of the State of Goa, he shall report his place of residence to the officer-in-charge of the nearest Police Station once in every month, even if there be no change in his address. The said officer may also direct that during the said period, as and when he goes away from the State, he shall, within ten days, from the date of his departure from the State, send a report in writing to the said Officer, either by post or otherwise of the date of his departure, and as and when he comes back to the State, he shall within ten days from the date of his arrival in the State, report the date of his arrival to the officer incharge of the Police Station nearest to the place where he may be staying.

Explanation:- "Habitual offender" shall mean any person as defined in clause (f) of section 2 of the Goa, Daman and Diu Habitual Offenders Act, 1976 (Act 16 of 1976).

5. Period Of Operation Of Orders Under Section 3 Or Section 4 :-

Any direction made under section 3 or section 4 not to enter any particular area, or any part thereof or any specified area or areas as the case may be, shall be for such period as may be specified therein, and shall in no case exceed a period of two years from the date on which it was made.

6. Hearing To Be Given Before Order Under Section 3 And Section 4 Is Passed :-

(1) Before an order under section 3 and section 4 is passed against any person, the officer shall by notice in writing inform him of the general nature of the material allegations against him and give him a reasonable opportunity of tendering an explanation regarding them.

(2) If such person makes an application for the examination of any witness to be produced by him, the officer concerned shall grant such application and examine such witness unless for reasons to be recorded in writing, the officer is of the opinion that such application is made for the purpose of causing vexation or delay.

(3) Any written statement put in by such person shall be filed with the record of the case. Such person shall be entitled to be

represented in the proceeding before the officer by a counsel for the purpose of tendering his explanation and examining the witness produced by him.

(4) The officer, may, for the purpose of securing the attendance of any person, against whom any order is proposed to be made under section 3 or section 4, require such person, to appear before him and to furnish a security bond with or without sureties for attendance during the enquiry. If the person fails to furnish the security bond as required or fails to appear before the officer during the enquiry, it shall be lawful for the officer to proceed with the enquiry, and thereupon to pass such order as is proposed to be passed against him.

(5) The provisions of sections 119 to 124 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply in relation to the order under sub-section (4) above.

(6) Without prejudice to the foregoing provisions, the officer, while issuing notice to any person under sub-section (1) may issue a warrant for his arrest and the provisions of sections 70 to 89 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply in relation to such warrant.

(7) The provisions of sections 445 to 448 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall so far as may be, apply in relation to all bonds executed under this section.

7. Appeal Against Order Under Section 3 Or Section 4 :-

(1) Any person aggrieved by an order made under section 3 or section 4 may appeal to the State Government or any Officer authorised by the State Government in this behalf (hereinafter referred to as the "Appellate Authority") within thirty days from the date of the service of such order on him.

(2) An appeal under this section shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(3) On receipt of such appeal the Appellate Authority may, after giving a reasonable opportunity to the appellant to be heard either personally or by a counsel and after such further inquiry, if any, as it may deem necessary, confirm, vary or set aside the order appealed against:

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the Appellate Authority otherwise directs.

(4) The Appellate Authority shall make every endeavour to dispose off an appeal under this section within a period of three months from the date of receipt of such appeal.

(5) In calculating the period of thirty days provided for an appeal under this section, the time taken for obtaining a certified copy of the order appealed against, shall be excluded.

8. Finality Of Order In Certain Cases :-

An order passed under section 3 or 4 by the officer or the Appellate Authority under section 7 shall not be called in question in any court except on the ground-

(a) that the authority making the order had not followed the procedure laid down in sub-section (1) or sub-section (2) or sub-section (4) of section 6 or sub-section (4) of section 7, as the case may be; or

(b) that there was no material before the officer or the Appellate Authority as the case may be, upon which it could have based its order; or

(c) in case of an order under section 4 or an order in appeal therefrom to the Appellate Authority under section 7, the authority was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person in respect of whom such order has been made.

9. Procedure On Failure Of Person To Leave The Area And His Entry Therein After Removal :-

If a person to whom a direction has been issued under section 3 or section 4 to remove himself from any area or part thereof or from any specified area-

(a) fails to remove himself as directed; or

(b) having so removed himself, except with the permission in writing of the authority making the order as provided under section 10, enters the area, or part thereof or the specified area within the period specified in the order, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area or part thereof or outside the specified area, as the case may be, as the said authority may in each case specify.

10. Temporary Permission To Enter And Consequences Of Non-Observance Of Conditions Attached To Such Permission

:-

(1) The District Magistrate or any other officer specially empowered by the State Government in that behalf may, by order in writing permit any person, in respect of whom an order under section 3 or section 4 has been made, to return to the area or part thereof, or to the specified area or areas, from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observance of the conditions imposed. The District Magistrate or the officer specially empowered in that behalf may at any time revoke any such permission.

(2) Any person who with such permission returns to such area or part thereof, or to such specified area, shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period shall remove himself outside such area, or part thereof, or outside such specified area or areas, as the case may be, and shall not return thereto within the unexpired portion of the period specified in the original order made under section 3 or section 4 without fresh permission.

(3) If such person fails to observe any of the conditions imposed, or to remove himself accordingly or having so removed himself enters or returns to the area or any part thereof, or to the specified area, as the case may be, without fresh permission, the District Magistrate or the officer specially empowered by the State Government in that behalf, to exercise powers within his jurisdiction, may cause him to be arrested and removed in police custody to such place outside the area or part thereof or outside specified area as the case may be, or that authority may in each case specify.

11. Penalty For Contravention Of Directions Under Section 3 Or Section 4 :-

Whoever opposes or disobeys or fails to conform to any directions issued under section 3 or section 4 or abets the opposition to, disobedience of any such direction shall, on conviction, be punished with imprisonment which shall not be less than four months but which may extend to one year.

12. Penalty For Entering Without Permission Area From Which A Person Is Directed To Remove Himself Or

Overstaying When Permitted To Return Temporarily Or For Failure To Report Place Or Residence Or Departure Or Arrival :-

Without prejudice to the power to arrest and remove a person in the circumstances and in the manner provided in section 9, any person who-

(a) in contravention of a direction issued to him under section 3 or section 4 enters or returns without permission to the area, or part thereof or to any specified area or areas as the case may be, from which he was directed to remove himself; or

(b) enters or returns to any such area or part thereof or to any specified area or areas as the case may be, with permission granted under sub-section (1) of section 10 but fails, contrary to the provisions thereof, to remove himself outside such area or part thereof or outside such specified area or areas, as the case may be, at the expiry of temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter, without fresh permission; or

(c) fails, without sufficient cause, to make a report about his place of residence or about his date of departure or arrival as required under sub-section (2) of section 4 shall, on conviction be punished with imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

13. Presumptions Of Prosecutions For Contraventions Of Order Made Under Section 3 Or Section 4 :-

In a prosecution for an offence for the contravention of an order made under section 3 or section 4 on the production of an authentic copy of the order, it shall, until the contrary is proved by the accused, be presumed-

(a) that the order was made by the authority competent under this Act to make it;

(b) that the authority making the order was satisfied that the grounds on, or for the purpose for which it was made existed, and that it was necessary to make the same; and

(c) that the order was otherwise valid and in conformity with the provisions of this Act.

14. Forfeiture Of Bond, Entered Into By Person Under Sub-Section (1) Of Section 10 :-

If any person permitted to enter or return to the area from which he was directed to remove himself under sub-section (1) of section 10, fails to observe any condition imposed under that sub-section or by the bond executed by him thereunder, his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the court why such penalty should not be paid.