

Orissa Restriction Of Habitual Offenders Act, 1952

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Orissa Restriction Of Habitual Offenders Act, 1952

An Act to impose certain restrictions on habitual offenders in the State of Orissa Whereas it is expedient to impose certain restrictions on habitual offenders in the State of Orissa ; It is hereby enacted as follows : * Published vide Orissa Act No. 24 of 1952. For Statement of Objects and Reasons, see Orissa Gazette Ext./16-10-1951 and for Proceedings In the Assembly, see Proceedings of the Orissa Legislative Assembly, 1952, Vol. II, No. 1, p. 40 No. 12, pp. 21-50 and No. 17, pp. 18-38.

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Restriction of Habitual Offenders Act, 1952.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force at once.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context-

(a) "habitual offender" means a person who has been sentenced to substantive terms of imprisonment whether before or after the commencement of the Act-

(i) for one or the other of the offences in Schedule I on two occasions;

(ii) for one or the other of the offences in Schedule II on three occasions;

(iii) for one of the offences in Schedule I and one of the offences in Schedule II on two occasions;

Explanation-Any order made requiring a person to give security for good behaviour with reference to Section 110 of the Code of Criminal Procedure, 1898 (V of 1898), shall amount to the passing of a sentence of substantive imprisonment for one or other of the offences under the Indian Penal Code, 1860 (XLV of 1860), as specified in Schedule II within the meaning of this clause;

(b) "notified offender" means a habitual offender in respect of whom a notification has been issued under Section 3 and is in force;

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

(d) "settlement" means a settlement established or deemed to have been established under Section 7.

3. Power To Notify Habitual Offenders :-

(1) The District Magistrate if satisfied that any person is a habitual offender may, for reasons to be recorded in writing, by notification-

(a) declare that he shall be subject to the provisions of this Act to such extent and subject to such restrictions, if any, as may be specified in the notification;

(b) cancel or modify any such declaration.

(2) Before any notification is issued in respect of any person under Clause (a) of Sub-section (1) or modified to his disadvantage under Clause (b) of the said sub-section, a reasonable opportunity shall be given to him to show cause against such issue or modification, as the case may be :

Provided that if the District Magistrate is satisfied, for reasons to be recorded by him in writing, that it is not reasonably practicable to give to any person, as aforesaid, an opportunity of showing cause,

he may issue or, as the case may be, modify such notification without giving such opportunity:

Provided further that when a notification is issued in respect of any person without giving him a reasonable opportunity of showing cause, it shall be notified by a proclamation published in such manner as the District Magistrate may by order direct and a copy thereof shall be affixed at such place or places as may be specified in that order for conveying the information to such person :

1[Provided also that issue of such a notification shall not preclude such person from showing cause at any time thereafter.]

(3) The State Government may cancel any notification issued under Sub-section (1) or modify the same on the application of a person affected by the same or without such an application.

1. Inserted vide Orissa Act No. 28 of 1978 w.e.f. 7.10.1978.

4. Notified Offenders To Intimate Residence And Change Of Residence :-

As soon as a person is notified as habitual offender he shall-

(a) report himself at such intervals and notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence in such manner and to such authority as may be prescribed ;

(b) allow his finger impressions to be recorded by the prescribed authority:

Provided that the District Magistrate or any officer authorised by him in this behalf may exempt any such offence or from reporting any temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

5. Power To Restrict Movements Of Notified Offenders :-

(1) If in the opinion of the State Government it is expedient so to do, they may, by notification declare that any notified offender shall be restricted in his movements to a specified area.

(2) Before making any such declaration, the State Government shall consider-

(i) the nature of the offences, if any, of which the offender has been convicted and the circumstances under which they were committed;

(ii) whether the offender employee-himself in any lawful occupation and whether such occupation is a real one or merely a pretence for facilitating the commission of offences;

- (iii) the suitability of the area to which his movements are to be restricted; and
- (iv) the manner in which it is proposed that he should earn his living in such area and the adequacy of the arrangements therefor.

6. Power To Cancel Or Alter Such Restrictions :-

The State Government may, by notification, cancel any declaration made under Section 5 or alter any area notified under that section : Provided that before issuing any such notification the State Government shall consider the matters referred to in Sub-section (2) of Section 5 in so far as they may be applicable.

7. Power To Place Notified Offenders In Settlements :-

The State Government may, for the purpose of this Act establish industrial, agricultural or reformatory settlement and may order any notified offender to be placed in any such settlement.

8. Power To Discharge Or Transfer Persons From Settlements :-

The State Government or any officer authorised by them in this behalf may at any time by an order in writing, direct any notified offenders who may be in a settlement to be discharged or transferred to any other settlement.

9. Power To Subject Voluntary Residents In Settlements To Restrictions And Penalties :-

The State Government may, by order, direct that any person voluntarily residing in any settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act on a notified offender placed in such settlement.

10. Penalties :-

Any notified offender who contravenes any of the provisions of this Act or any notification, rule or order made thereunder shall be punishable-

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both;
- (b) on a second or subsequent conviction, with imprisonment for a

term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

11. Arrest Of Notified Offenders :-

If a notified offender -

(a) is found outside the area to which his movements have been restricted in contravention of the conditions under which he is permitted to leave such area; or

(b) escapes from any settlement in which he has been placed, he may be arrested without warrant by any Police Officer, village headman or village watchman and taken before any Magistrate who, on proof of the facts, shall order him to be removed to such area or to such settlement, to be dealt with in accordance with the provisions of this Act and any rules made thereunder.

12. Rules For The Removal Of Prisoners To Apply In Certain Cases :-

Every law or rule for the time being in force governing the removal of prisoners shall apply to all persons ordered to be placed in a settlement under Section 7 or to be removed under Section 8 :

Provided that no order from the State Government or the Inspector-General of Prisons shall be necessary for the removal of such persons.

13. Bar Of Jurisdiction :-

No Court shall question the validity of any notification or order, issued under this Act.

13A. Protection Of Action Taken Under This Act :-

1[No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.]

1. Inserted vide Orissa Act No. 28 of 1978-w.e.f. 7.10.1978.

14. Power To Make Rules :-

(1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the

foregoing power, such rules may provide for or regulate-

- (a) all matters required or allowed by this Act to be prescribed;
- (b) the intervals manner and the authority to be prescribe under Section 4;
- (c) the restrictions to be observed under Section 5 by notified offenders in respect of whom notifications have been issued under Section 3;
- (d) the grant of certificates of identity to notified offenders, and the inspection of such certificates;
- (e) the conditions under which notified offenders may be permitted to leave the area to which their movements are restricted or the places in which they are set-led;
- (f) the inspection of the residences of notified offenders;
- (g) the terms upon which notified offenders may be discharged from the operation of this Act;
- (h) the management and supervision of settlements including the discipline and conduct of the persons placed in them; and
- (i) the periodical review of the cases of all persons who have been placed in any settlement under this Act.

(3) All rules made under this section shall be published in the Gazette, and upon such publication shall have effect as if enacted in this Act.

SCHEDULE 1

SCHEDULE I

[See Section 2 (a)]

Sections of the Indian Penal Code

302. Murder

304. Culpable homicide not amounting to murder

307. Attempt to murder

308. Attempt to commit culpable homicide

311. Being a thug

382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft

392. Robbery

393. Attempt to commit robbery

394. Voluntarily causing hurt in committing robbery

395. Dacoity

396. Murder in Dacoit

397. Robbery or Dacoity, with attempt to cause death or grievous hurt

398. Attempt to commit robbery or Dacoity when armed with deadly weapon

399. Making preparation to commit Dacoity

400. Belonging to a gang of persons associated for habitually committing dacoity

401. Belonging to a wandering gang of persons associated for the purpose of habitually committing theft

402. Assembling for purpose of committing Dacoity

412. Dishonestly receiving stolen property knowing that it was obtained by Dacoity

- 413. Habitually dealing in stolen property
- 458. Lurking House-trespass or house-breaking by night, after preparation for hurt, assault or wrongful restraint
- 459. Grievous hurt caused whilst committing lurking house trespass or house-breaking
- 460. All persons jointly concerned in lurking House-trespass or housebreaking by night punishable where death or grievous-hurt is caused by one of them.

SCHEDULE 2

SCHEDULE II

[See Section 2 (a)]

PART-I

Sections of the Indian Penal Code

- 170. Personating a public servant
- 171. Wearing garb or carrying token used by public servant with fraudulent intent
- 231. Counterfeiting coin
- 232. Counterfeiting Indian coin
- 233. Making or selling instrument for counterfeiting coin
- 234. Making or selling instrument for counterfeiting Indian coin
- 235. Possession of instrument or material for the purpose of using the same for counterfeiting coin
- 239. Delivery of coin, possessed with the knowledge that it is counterfeit
- 240. Delivery of Indian coin possessed with the knowledge that it is counterfeit
- 242. Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof
- 243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof
- 326. Voluntarily causing grievous hurt by dangerous weapons or means
- 327. Voluntarily causing hurt to extort property or to constrain to an illegal Act
- 328. Causing hurt by means of poison, etc., with intent to commit an offence
- 329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal Act
- 332. Voluntarily causing hurt to deter public servant from his duty
- 333. Voluntarily causing grievous hurt to deter public servant from his duty
- 364. Kidnapping or abducting in order to murder
- 367. Kidnapping or abducting in order to subject person to grievous hurt slavery, etc.
- 369. Kidnapping or abducting child under ten years with intent to steal from its person
- 370. Buying or disposing of any person as a slave
- 371. Habitual dealing in slaves
- 379. Theft
- 380. Theft in a building, tent or vessel
- 381. Theft by clerk or servant of property in possession of master or employer
- 384. Extortion
- 385. Putting person in fear of injury in order to commit extortion
- 386. Extortion by putting a person in fear of death or grievous hurt
- 387. Putting person in fear of death or of grievous hurt in order to commit extortion
- 411. Dishonestly receiving stolen property
- 414. Assisting in concealment of stolen property
- 419. Punishment for cheating by personation

420. Cheating and dishonestly inducing delivery of property
454. Lurking House-trespass or house-breaking in order to commit offence punishable with imprisonment
456. Punishment for lurking house trespass or house-breaking by night
457. Lurking House-trespass or house-breaking by night in order to commit offence punishable with imprisonment
485. Making or possession of any instrument for counterfeiting a property mark
489-A:Counterfeiting currency-notes or bank-notes
489-B.Using as genuine, forged or counterfeit currency-notes or banknotes
489-C. Possession of forged or counterfeit currency-notes or banknotes
489-D. Making or possessing instruments or materials forging or counterfeiting currency-notes or bank-notes

PART-II

Sections of other laws

9 of the Opium Act, 1878 (1 of 1878)

5 of the Telegraph Wires (Unlawful Possession) Act, 1950 (74 of 1950) 16 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) 7 of the Essential Commodities Act, 1955 (13 of 1955) 3 of the Railway Property (Unlawful Possession) Act, 1966 (29 of 1966)

PART-III

Offences under-

1. The Suppression of Immoral Traffic in Women and Girls Act. 1956 (10 of 1956)
2. The Orissa Prevention of Gambling Act, 1955 (Orissa Act 17 of 1955)
3. The Orissa (Scheduled Areas Money-lenders) Regulation, 1967 (Orissa Regulation 2 of 1968)]
1. Substituted vide Orissa Act No. 28 of 1978.