

Punjab Control Of Goondas Ordinance, 1959

35 of 1959

[04 June 1959]

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SCHEDULE 1 :- THE FIRST SCHEDULE

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Punjab Control Of Goondas Ordinance, 1959

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An Ordinance to consolidate and amend the law relating to the control of disorderly persons commonly known as goondas in the province of [3][thePunjab] Preamble.- WHEREAS it is expedient to consolidate and amend the law relating to the control of disorderly persons commonly known as goondas in the province of [4][the Punjab]; Now, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short Title And Extent :-

(1) This Ordinance may be called the [5][Punjab] Control of Goondas Ordinance, 1959.

[6][(2) It shall extend to the whole of the province of [7][the Punjab] except the Tribal Areas.]

1A. Definitions :-

In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "Government" means the [9][Provincial Government of the Punjab];
- (b) "prescribed" means prescribed by rules made under this Ordinance; and
- (c) "Tribunal" means the Tribunal constituted under section 2.

2. Constitution Of Tribunal :-

(1) In every district there shall be a Tribunal[10] to deal with cases under this Ordinance arising within the district.

(2) The Tribunal shall consist of the officer holding for the time being the office of the District Magistrate or any magistrate of the first class especially empowered by Government in this behalf.

3. Powers Of Tribunal :-

(1) For the purpose of conducting inquiries under this ordinance, the Tribunal shall have all the powers of a District Magistrate under the Code of Criminal Procedure, 1898[11], for issuing summons and

warrants, for compelling attendance of witnesses and production of documents for the examination of persons complained against and witnesses, and for issuing commissions for the examination of witnesses.

(2) Proceedings before the Tribunal shall be deemed to be judicial proceedings.

4. Contempt Proceedings :-

The Tribunal shall for purposes of section 480 of the Code of Criminal Procedure, 1898, be deemed to be a court.

5. Cognizance Of Cases By Tribunal :-

(1) No Tribunal shall take cognizance of a case under this Ordinance unless:-

- (a) (i) the person complained against resides, or
- (ii) the acts mentioned in clauses (a) to (l) of section 13 are alleged to have been committed, within the local limits of its jurisdiction; and

[12][(b) The Officer incharge of the police station within the jurisdiction whereof such place as aforesaid lies, or in areas which are not within the jurisdiction of any police station, the Extra Assistant Commissioner within whose jurisdiction such place lies or any other officer authorised in this behalf by the District Magistrate, lays information with the Tribunal under sub-section (2).]

(2) The information shall be signed by the police officer concerned and shall briefly set out-

- (a) the practices with which the person complained against is charged;
- (b) instances, with details of time and place of such practices;
- (c) a statement of any relevant general repute in which such person is held and any other ground on which the information is based;
- (d) names and other particulars of witnesses who will be produced to support the allegations contained in the information; and
- (e) prayer as regards action to be taken against him.

6. Summoning Of The Persons :-

On receipt of information under section 5, the Tribunal may summon the person complained against to appear before it, and shall, as soon as he appears before it, supply him with a copy of

the information laid against him:

Provided that the Tribunal may, for reasons to be recorded, in the very first instance or at any later stage of the inquiry, instead of issuing summons, issue a warrant, non-bailable or bailable, in such sum as may appear to it reasonable, for the arrest of the aforesaid person and his production before the Tribunal-

- (i) if it is satisfied that the said person is hiding himself to evade service of the summons, or
- (ii) if he does not appear in spite of the service of summons, or
- (iii) if it is, for any other reason, satisfied that such action is necessary.

7. Procedure Where A Person Absconds Or Conceals Himself :-

If the Tribunal has reason to believe that a person against whom a warrant of arrest has been issued under section 6, has absconded, or is concealing himself so that the warrant cannot be executed, it may-

- (a) send a report to a magistrate having jurisdiction in the area where the person complained against ordinarily resides or has his property or is present, and the said magistrate shall take proceedings under sections 87, 88 and 89 of the Code of Criminal Procedure, 1898[13], in respect of such person and his property as if the warrant were a warrant issued by the said magistrate; or
- (b) by order notified in the gazette, direct such person to appear before it, at such place and within such period as may be specified in the order; and if such person omits to comply with the directions, he shall, unless he proves that it was not possible for him to comply therewith and that he had, at the first possible opportunity within the period sent information to the Tribunal of the reason which rendered compliance therewith impossible and of his whereabouts, be deemed to have evaded compliance with the order.

8. Appearance Before Tribunal :-

- (1) The Tribunal may, when the person complained against appears before it, take from him a bond, with or without sureties, for his appearance during the inquiry or when called upon, as the case may be, and may also, having regard to the nature of the information laid against him, require him to furnish a bond, with one or more sureties, in such sum as the Tribunal may think fit, to

be of good behaviour until the conclusion of the inquiry and may direct that he be detained in custody until such bond is executed, or in default of execution, until the inquiry is concluded.

(2) The Tribunal may, for reasons to be recorded, instead of taking a bond for the appearance of the person complained against, order his detention till the conclusion of the inquiry in such prison as it thinks suitable:

Provided that such detention shall not exceed two months unless his case has been referred to the Commissioner and the latter has agreed to such detention.

9. Joint Proceedings :-

Where two or more persons are associated together with regard to any matter covered by the allegations contained in the information laid in respect of them, to an extent which in the opinion of the Tribunal justifies such a course, the inquiry into the matter with regard to which they are associated together may be conducted against all, or any of them jointly.

10. Proceedings Before Tribunal :-

The Tribunal shall proceed to inquire into the truth or otherwise of the information upon which action has been taken, and for that purpose may record such evidence as may appear necessary, following in all such cases, the procedure prescribed in the Code of Criminal Procedure, 1898, for conducting trials and recording evidence in summons cases, but subject to the special provision of this Ordinance.

11. Tribunal May Act On The Evidence Recorded By Its Predecessor :-

Whenever any Tribunal, after having heard and recorded the whole or any part of the evidence in an inquiry, ceases to exercise jurisdiction therein, and is succeeded by another Tribunal, which has and which exercises such jurisdiction, the Tribunal so succeeding may act on the evidence so recorded by its predecessor or partly recorded by its predecessor and partly recorded by itself or may resummon the witnesses and re-commence the inquiry.

12. Orders By Tribunal :-

(1) Notwithstanding anything to the contrary contained in any law

for the time being in force, the Tribunal may receive and consider evidence of general repute, of previous convictions, or of previous occasions on which the person complained against was bound over to keep the peace or to be of good behaviour.]

(2) The Tribunal may grant immunity from prosecution for any offence other than that of giving false evidence to any witness appearing in any inquiry under this Ordinance in respect of any matter relevant to the inquiry.

(3) The Tribunal may direct any magistrate having jurisdiction in the area to take such steps as may be necessary to protect the life and property of any person who has given or is required to give evidence in any inquiry under this Ordinance.

13. Declaration Of Goondas :-

If the Tribunal is satisfied, as a result of enquiry held under this Ordinance, that the person complained against-

(a) keeps or manages a drinking or gambling den or a place where opium or other intoxicating drugs are smoked or otherwise consumed, or makes a livelihood out of such den or place by acting as a tout or otherwise howsoever; or

(b) engages in the illicit manufacture or sale of liquor or opium or other intoxicating drugs; or

(c) keeps or manages a brothel as defined in the West Pakistan[16] Suppression of Prostitution Ordinance, 1961, or is a tout of prostitutes, or lives wholly or in part, on the earnings of prostitutes; or

(d) frequents, for immoral purposes, houses inhabited by prostitutes; or

(e) frequents resorts of vice such as drinking or gambling dens, or places where opium or other intoxicating drugs are smoked or otherwise consumed; or

(f) makes fraudulent collection in the name of charity; or

(g) is frequently drunk and disorderly in public; or

(h) is in the habit of using obscene or abusive language in public; or

(i) corrupts persons under eighteen years of age by initiating them into vices such as drinking or gambling or immoral behaviour; or

(j) annoys or molests persons, particularly women or persons under eighteen years of age; or

(k) does obscene acts such as wilful exposure of his person in public; or

(l) insults the modesty of women by using foul language or making indecent sounds or gestures, or by exposure of his person or the person of any other individual or of any object or otherwise howsoever; or

(m) behaves riotously in public by entering into affrays, or otherwise, howsoever; or

(n) causes fear or alarm to the public or any section or member thereof, by issuing threats, verbally or in writing, or by making, publishing or circulating false statements, rumours or reports; or

(o) indulges in criminal intimidation as defined in section 503 of the Pakistan Penal Code; or

(p) makes a livelihood, or extorts money or other property or seeks any concession or favour from any one, by any form of intimidation; or

(q) defies the law generally and endangers public peace; or

(r) habitually moves, carries, takes or sends, by any means whatsoever, any goods without the payment of any tax, duty or fee imposed by law or in contravention of any lawful order; or

(s) habitually receives or deals in property which he knows or has reason to believe to be stolen property as defined in section 410 of the Pakistan Penal Code; or

(t) habitually kidnaps, abducts or seduces women, persons of unsound mind or minors within the meaning of section 360, 361, 362 or 366-A of the Pakistan Penal Code; or

(u) publishes, distributes, circulates, sells or offers for sale any obscene book or picture or other object; or

(v) habitually indulges in unnatural carnal inter-course; or

(w) habitually counterfeits or habitually and intentionally utters counterfeit coins; or

(x) is by habit a forger; or

(y) makes a livelihood by cheating, fraud, blackmarketing (that is to say, engaging in transactions involving the transfer, sale or movement of goods in contravention of any lawful order controlling such transfer, sale or movement), acting as an intermediary between bribe-givers and corrupt officials or corrupt persons in public life; or

(z) abets the commission of any of the acts mentioned in the aforesaid clauses or breach of any order made under this Ordinance, or harbours a goonda, not being the wife or the husband of such goonda;

it shall declare that such person is a goonda and shall direct that his name be publicly notified in the prescribed manner, and be

placed on the prescribed list of goondas.

14. Special Orders Against Goondas :-

(1) While making a declaration under section 13 the Tribunal may act in such one or more of the following ways as it may deem fit:-

(a) it may require him to furnish a bond, with one or more sureties, for such period not exceeding two years and in such amount as may be specified, to be of good behaviour, provided that, where he is a minor, the bond executed, by a surety or sureties only may be accepted;

(b) it may, in view of his age and antecedents, and the fact that some person of mature age, who is in a position of authority over him by virtue of relationship or otherwise, undertakes to become responsible for his good behaviour and executes a bond or other document to the satisfaction of the Tribunal to this effect, release him after due admonition;

(c) it may, where he fails to execute the bond or cannot produce a surety or sureties to the satisfaction of the Tribunal, order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available, or, failing that, the term of the order under clause (b) expires or until the Tribunal makes any other order about him;

(d) it may direct that-

(i) his movements be restricted to any place or area specified in the order;

(ii) or may direct him to report himself at such times and places and in such mode as may be specified in the order;

(iii) or it may make both the directions;

(iv) or may direct that he shall not reside within areas specified in the order;

(e) it may direct that he shall not visit or go within surroundings specified in the order, or, any of the undermentioned places, without the written permission of the officer in charge of the police station within whose jurisdiction such place is situated, namely:-

(i) schools, colleges, and other institutions where persons under eighteen years of age or women are given education or other training or are housed permanently or temporarily;

(ii) theatres, cinemas, fairs, amusement parks, and other places of public entertainment;

(iii) public halls, restaurants, tea-shops and other places of public resort;

(iv) public or private parks and gardens;
(v) public or private playing fields and race-courses; or
(vi) the scene of any public meeting or procession or any assemblage of the public whether in an enclosed place or otherwise, in connection with any public event or festival or other celebrations.

(2) No order under clause (d) or clause (e) or sub-section (1) shall be made operative for a period exceeding three years and without hearing the goonda in respect thereof.

15. Publication Of Declaration :-

An order under section 13 declaring any person to be a goonda shall be published alongwith a statement of the order or orders, if any, made in respect of such person under section 14, in such manner and containing such details as may be prescribed.

16. Bond Under Tribunals Order :-

(1) Every bond furnished in compliance with an order made by the Tribunal under this Ordinance shall be in the form prescribed by the Code of Criminal Procedure, 1898[18], for a bond of the same description:

Provided that the Tribunal may direct that the sureties offered be scrutinised by a magistrate of the first class nominated for the purpose by it.

(2) Any surety may apply to be released from the obligations of his bond, and the Tribunal may, after such enquiry as it may deem fit, call upon the person who is bound over to furnish fresh surety, and thereupon the provisions of sub-section (1) shall apply in relation thereto:

Provided that the surety seeking release shall not be released from his obligations unless a fresh surety has been accepted in his place or, in case no surety is furnished or accepted, he produces the person concerned before the Tribunal.

(3) The Tribunal may, where a person who has furnished a bond for his appearance makes default, direct, in addition to action under the other provisions of this Ordinance, that a warrant which may be bailable or non-bailable as the Tribunal may direct shall be issued for the production of such person.

(4) The provisions of section 514 of the Code of Criminal Procedure, 1898[19], shall apply in respect of the forfeiture of bonds furnished under this Ordinance, as if for the expression "Court" the

expression "Tribunal" wherever applicable for the purpose of this Ordinance, was substituted, and as if from sub-section (1) of the said section, the reference to a magistrate of first class was omitted, and as if in sub-section (7) of the said section-

(i) the reference to section 106 or section 118 or section 562 of that Code was replaced by a reference to clause (a) of sub-section (1) of section 14 of this Ordinance; and

(ii) the reference to a bond executed in lieu of the bond under section 514-B of that Code was replaced by a reference to the proviso to clause (a) of sub-section (1) of section 14 of this Ordinance.

(5) A breach of any order made against any person under clause (d) or clause (e) of sub-section (1) of section 14, or the further commission of any of the acts mentioned in section 13, or the commission of any offence which is punishable with imprisonment under any law for the time being in force and which in the opinion of the Tribunal involves or implies moral turpitude, shall amount to a breach of a bond for good behaviour which may have been furnished by him under this Ordinance.

17. Discharge Of Person Informed Against :-

If, on an inquiry under section 10, it is proved that action under section 13 is not necessary the Tribunal shall make an entry on the record to that effect and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

18. Appeal Against The Orders Of The Tribunal :-

(1) An appeal from an order made by a Tribunal under section 4, section 8, section 13, section 14 or section 16, shall lie to the Commissioner of the Division in which the Tribunal exercises its jurisdiction.

(2) The provisions of the Limitation Act, 1908[20], shall apply to an appeal under sub-section (1):

Provided that the period of limitation for an appeal shall be thirty days from the date of the order.

(3) The Commissioner on hearing the appeal may-

(a) discharge the person complained against, or

(b) dismiss the appeal, or

(c) subject to the provisions of this Ordinance modify the order appealed against in such manner as he may think fit.

19. Revision Of Tribunals Orders :-

In relation to any such order under section 4 or section 13, or section 16, the High Court may call for the record of the case, and if the Tribunal or the Commissioner appears-

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally,

the High Court may make such direction as it may deem sufficient for the rectification of the error or omission and the Tribunal or the Commissioner shall conduct itself, or himself, as the case may be, accordingly.

20. Photographs, Fingerprints, Etc :-

Every person, in respect of whom an order has been made under section 13 shall, if so directed by the Tribunal present himself before such officer of Government and at such place and time as may be specified in the order-

(i) for being photographed,

(ii) for giving his finger impressions or, if literate, specimens of his handwriting and signature, and such person shall allow himself to be photographed and shall affix his finger impressions as required, and, as the case may be, supply specimens of his handwriting and signature.

21. Punishment :-

(1) Whoever contravenes any order made under clause (d) or clause (e) of sub-section (1) of section 14, shall be punished with imprisonment of either description which may extend to two years, or with fine, or with both.

(2) Whoever contravenes any order made or disobeys any direction given under this Ordinance shall be punished with imprisonment of either description which may extend to one year or with fine or with both.

(3) Whoever contravenes any order made or disobeys any direction given under this Ordinance may be punished with whipping in addition to any other punishment to which he may be liable under this section.

21A. Enhanced Punishment In Some Cases :-

Notwithstanding anything contained in the Pakistan Penal Code, the Whipping Act, 1909, or any other law for the time being in force when a goonda is convicted under an enactment, mentioned in the First Schedule to this Ordinance, for an offence punishable under any of the sections of that enactment mentioned against it in the second column of the said Schedule, the maximum punishment that may be awarded to him on such conviction shall be that appearing in the corresponding entry in the third column thereof.

22. Offences Cognizable And Non-Bailable :-

Notwithstanding anything contained in any other law for the time being in force, every offence punishable under this Ordinance, shall be cognizable and non-bailable.

22A. Appointments And Duties Of Probation Officers :-

(1) The Probation Officers appointed under the Probation of Offenders Ordinance, 1960, and such Gazetted Officers, other than Police Officers, as Government may, by notification in the official Gazette, appoint, shall be the Probation Officers for purposes of this Ordinance, within the local limits assigned to each.

(2) It shall be the duty of a Probation Officer, under the general control of the Tribunal,-

(a) to have the superintendence of all goondas within his jurisdiction with a view to preventing them from evil association and assisting in their rehabilitation as useful citizens;

(b) to make reports at prescribed times and in the prescribed manner to the Tribunal regarding the general behaviour of each such person, and the manner of dealing with him;

(c) to make recommendations, as and when justified by the general behaviour of any such person, for releasing him from any bond for good behaviour or from any order of detention or prohibition made in respect of him under clause (a), clause (c), clause (d) or clause (e) of sub-section (1) of section 14, as the case may be; and

(d) to make recommendations as and when justified by marked improvement in the general behaviour, manner of life and character of any such person, that his name may be removed from any list of goondas maintained under section 13].

22B. Action On Probation Officers Report :-

On receipt of a periodical report, or as the case may be, a recommendation from the Probation Officer under section 22-A, the Tribunal may in the case of any goonda, after such inquiry as it may deem necessary, direct-

(a) that he be released from any bond for good behaviour furnished by him or on his account and from any order of detention or of prohibition made in respect of him under section 14; or

(b) that his name be removed from the list of goondas maintained under section 13.

23. Effect Of Laws And Enactments :-

The provisions of this Ordinance, and any order made or action taken under this Ordinance, shall have effect notwithstanding anything inconsistent therewith contained in any enactment, other

than this Ordinance, for the time being in force, and in any instrument having effect by virtue of any such enactment other than this Ordinance.

24. Bar On Civil Or Criminal Proceedings :-

No proceedings taken or orders passed under this Ordinance, shall be called in question otherwise than as provided hereunder, and no civil or criminal proceedings shall be instituted against any person for anything done or intended to be done under this Ordinance, or against any person for any loss or damage caused to, or in respect of, any property as a result of an act done or intended to be done under this Ordinance.

25. Section 25 :-

[Removal of name from the list of goondas]. Deleted by the West Pakistan Control of Goondas (Amendment) Ordinance, 1968 (XI of 1968).

26. Custody Of Records :-

The record of the proceedings held by a Tribunal shall, after disposal of the case, be kept in such custody as Government may prescribe.

27. Transfer Of Cases :-

(1) Government may by an order in writing transfer a case from one Tribunal to another in the province.

(2) The Commissioner may by order in writing transfer a case from one Tribunal to another within a division.

27A. Withdrawal From Proceedings :-

A Public Prosecutor may, with the consent of the Tribunal, withdraw from any proceedings pending before the Tribunal against any person, and upon such withdrawal, such person, if in custody only for the purposes of such proceedings, shall be released, or if such person is not in custody, shall be discharged.

28. Rules :-

(1) Government may make rules[25], not inconsistent with the provisions of this Ordinance, for carrying out the purposes of this Ordinance.

- (2) Without prejudice to the generality of the power conferred by sub-section (1) such rules may provide for-
- (a) the lists to be maintained in which the names of goondas are to be registered, and the manner of such registration;
 - (b) the manner in which the names of persons who are declared to be goondas should be publicly notified; and
 - (c) the manner in which an order under clause (d) of sub-section (1) of section 14 shall operate.

29. Repeal :-

The enactments specified in the [26][Second Schedule] are hereby repealed to the extent mentioned in the fourth column thereof.

SCHEDULE 1

THE FIRST SCHEDULE

(See Section 21-A)

Name and other details of enactment	Number of sections	Maximum punishment
1	2	3
PART I-PAKISTAN PENAL CODE		
Chapter VIII, Pakistan Penal Code.	1. Sections 143, 144 151 and 153.	Two years' rigorous imprisonment.
	2. Section 153-A	Five years' rigorous imprisonment and whipping.
	3. Sections 157 and 158	Three years' rigorous imprisonment.
	4. Section 160	Two years' rigorous imprisonment.
Chapter X, Pakistan Penal Code.	1. Sections 172, 173, 174 and 182.	One years' rigorous imprisonment.
	2. Sections 186 and 188	Two years' rigorous imprisonment and whipping.
	3. Sections 189 and 190	Three years' rigorous imprisonment and whipping.
Chapter XI, Pakistan Penal Code.	1. Sections 224 and 225 parts I and II.	Five years' rigorous imprisonment and whipping.
	2. Section 225, Parts III, IV and V	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	3. Sections 225-B and 228.	Two years' rigorous imprisonment and whipping.
Chapter XIV, Pakistan Penal Code.	Sections 292, 293 and 294.	Two years' rigorous imprisonment and whipping.
Chapter XVI	1. Section 341	One year's rigorous

Chapter XVI, Pakistan Penal Code.	1. Section 341	One year's rigorous imprisonment and whipping.
	2. Sections 342, 343, 344, 345, 346 and 347.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	3. Section 352	Two years' rigorous imprisonment and whipping.
	4. Sections 353, 354, 355 and 356.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	5. Section 357	Two years' rigorous imprisonment and whipping.
	6. Sections 363, 365, 366, 366-A, 367, 368, 369, 372, 373 and 377.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
Chapter XVII, Pakistan Penal Code.	1. Sections 384, 385, 386, 387, 388, 389, 392, 399, 401 and 402.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	2. Sections 411 and 414	Five years' rigorous imprisonment.
	3. Sections 417, 418 and 419.	Five years' rigorous imprisonment.
Chapter XVIII, Pakistan Penal Code.	Section 465	Five years' rigorous imprisonment.
Chapter XX, Pakistan Penal Code.	Section 498.	Five years' rigorous imprisonment and whipping.
Chapter XXII, Pakistan Penal Code.	1. Sections 504, 506, 507, 508 and 509.	Whipping in addition to the punishment provided under the Pakistan Penal Code.
	2. Section 510	Six months rigorous imprisonment and whipping.
PART II-OTHER ENACTMENTS		
1. Opium Act, 1878	Section 9	Five years' rigorous imprisonment and shall also be liable to fine.
2. Sind Abkari Act, 1878.	Section 43	Five years' rigorous imprisonment and shall also be liable to fine.
	Sections 45, 45-A, 46	One year's rigorous imprisonment and shall also be liable to fine.
3. West Pakistan Prevention of Gambling Ordinance, 1961.	Sections 4, 5 and 6	One year's rigorous imprisonment for the first and two year's rigorous imprisonment for any subsequent offence.

SCHEDULE 2

THE SECOND SCHEDULE

(See SECTION 29)

Year	No.	Short title	Extent of repeal
1	2	3	4
1951	XIV	The Punjab Control of Goondas Act, 1961.	The whole.
1952	XXVIII	The Sind Control of Goondas Act, 1952.	The whole.
1962	XXIX	The Karachi Control of Disorderly Persons Act, 1952.	The whole.
1959	IV	The Sind Acts Extension to Khairpur District Ordinance, 1959.	Entry 8 of the first Schedule.