

Madras District Police Act, 1859

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SCHEDULE 1 :- SCHEDULE I

Madras District Police Act, 1859

24 of 1859

An Act for the better regulation of the Police within the State of Tamil Nadu. WHEREAS it is expedient to make the Police force throughout the State of Tamil Nadu a more efficient instrument for the prevention and detection of crime, and to re-organise the Police force. It is enacted as follows:-

1. Interpretation :-

The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):

"Magistrate".-- The word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate ;

"Superior Police".-- The expression "superior police" shall mean the Director-General of Police, Inspectors-General of Police, Deputy Inspectors-General of Police, District Superintendents of Police, Assistant Superintendents of Police, and Deputy Superintendents of Police ;

"Subordinate Police".-- The expression "subordinate police" shall mean all police officers of and below the rank of an Inspector ;

"Police".-- The word "Police" shall include all persons appointed under this Act ;

"General Police District".-- The expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended ;

"Property".-- The word "property" shall include any movable property ; money or valuable security ;

"Person".-- The word "person" shall include company or corporation ;

"Month", "Cattle".-- The word "month" shall mean calendar month ; The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2. Repealed :-

Repealed by Central Act XIV of 1870.

3. Repealed :-

Repealed by Central Act XIV of 1870.

4. Superintendence Vested In The State Government :-

The Superintendence of the Police throughout the General Police District shall vest in, and be exercised by the State Government and, except as authorized by them under the provisions of this Act, no person ; officer or Court shall be empowered to supersede or control any police functionary, any Regulation, Act or usage to the contrary notwithstanding.

5. Director-General Of Police, Etc :-

The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Director-General of Police for the State of Tamil Nadu, and in such superior Police Officers as to the State Government shall deem fit.

6. Power Of Police, Etc :-

All powers not inconsistent with the provisions of this Act which upto the passing of this Act belonged by law to the existing Police authorities shall be vested in the Police authorities appointed under this Act :

Provided always that no Police functionary so appointed shall possess or exercise any judicial or revenue authority.

7. Omitted :-

Omitted by Tamil Nadu Act No.49 of 1979.

8. Constitution, Pay, Etc., Of Force :-

The entire Police establishment of the Tamil Nadu shall for the purposes of this Act be deemed to be one Police force and shall be formally enrolled, and shall consist of such number of officers and men and shall be otherwise constituted in such manner, as shall be from time to time ordered by the State Government. The pay and all other conditions of service of officers of the Subordinate Police shall subject to the provisions of this Act, be such¹[as may be determined by the State Government by rules either prospectively or retrospectively :

Provided that the rules made under this section shall not have retrospective effect from a date earlier than the 20th day of October, 1971.]

1. Substituted by Tamil Nadu Act No. 35 of 1981

9. Director-General To Control Forces And Make Rules :-

The Director-General may, from time to time, subject to the approval of the State Government, frame such orders and regulations as he shall deem expedient, relating to the general Government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof ; their inspection, the description of arms, accoutrements and other necessities to be furnished to them ; to collecting the communicating intelligence and information ; and all such other orders and regulations relating to the said Police force as the said Director-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

10. Dismissal, Suspension Or Reduction Of Officers Of The Subordinate Police :-

Subject to the provisions of Article 311 of the Constitution and to such rules as the State Government may from time to time make 1 [either prospectively or retrospectively] under this Act, the Director-General, the Inspectors-General, Deputy Inspectors-General and District Superintendents of Police may at any time dismiss, suspend or reduce to a lower post, or timescale, or to a lower stage in time scale, any officer of the Subordinate Police whom they shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same and may order the recovery from the pay of any such Police Officer of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders:

1 [Provided that the rules made under the section shall not have retrospective effect from a date earlier than the 20th day of October, 1971.]

1. Inserted by Tamil Nadu Act No. 35 of 1981.

11. Police Officers To Receive Certificates Of Office :-

Every person appointed as an Officer of the Subordinate Police shall receive on his enrolment a certificate (A) under the seal of the Director-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

12. Power To Appoint Any Member Of The Police Force, Appointed Under The Travancore-Cochin Police Act, 1951, In The Area To Which This Act Extends :-

The State Government, the Director-General of Police or the Inspector-General of Police or the Deputy Inspector-General of Police may appoint any member of the Police Force appointed under the Travancore-Cochin Police Act, 1951 (Travancore-Cochin Act II of 1952), as applied to the Kanyakumari district to be a Police Officer in the area to which this Act extends and thereupon such officer shall exercise the powers and perform duties and functions and shall be subject to all liabilities of a Police Officer under this Act.

13. Additional Police Officer Employed At Cost Of Individuals :-

It shall be lawful for the State Government, if they shall think fit, on the application of any person showing the necessity thereof, to appoint any additional number of Police Officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the Director-General, or the Inspector-General or Deputy Inspector-General or District Superintendent and for such time as they shall think fit provided always that it shall be lawful for the person on whose application such appointment shall have been made, on giving one months notice in writing to the Director-General, or the Inspector-General or Deputy Inspector-General or District Superintendent, to require that the officers so appointed shall be discontinued ; such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Additional Force In Neighbourhood Of Railway And Other Works :-

Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Director-General that the appointment of an additional Police Force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful of the Director-General, with the consent of the State Government to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue, and to make orders from time to time upon the treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra force so rendered necessary as aforesaid.

15. Recovery Of Sums Payable For Support Of Additional Police Force :-

All sums of money payable under the two last preceding sections shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

16. Special Police Officers :-

When it shall appear that any unlawful assembly or riot or disturbance of the peace has taken place or may be reasonably apprehended in any place and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police Officer may require to act as Special Police Officers for such time and in such manner as he shall deem necessary ; and it shall be the duty of such Magistrate at once to comply with such applications.

17. Powers Of Special Police Officers :-

Every Special Police Officer so appointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary officers of Police. He shall receive a certificate in such form as the State Government may determine, under the signature of the Magistrate who appointed him.

18. Punishment For Refusal To Serve :-

If any person, being appointed a Special Police Officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order, or direction as may be given to him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

19. Police Officers Not To Resign Without Leave Or Notice ; Not To Take Other Employment :-

No Police Officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent ; or unless he shall have given to his superior officer two months notice in writing of his intention to do so. Nor shall any such Police Officer engaged in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of

the Director-General of Police.

20. Unlawful Assumption Of Police Functions, Personation Of Police, Etc :-

From and after the passing of this Act, every person not being or having ceased to be, a duly enrolled Police Officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessities which may have been supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or accoutrement directed to be worn exclusively by the Police force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police Officer, or and dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police Officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for an offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months or both.

21. Duties Of Police Officers :-

Every Police Officer shall, for all purposes in this Act contained be considered to be always on duty and shall have the powers of a Police Officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to collect and communicate intelligence affecting the public peace ; and promptly to obey and execute all orders and warrants lawfully issued to him.

22. Section 22 :-

Section 22 to 41 - Repealed

23. Section 23 :-

24. Section 24 :-

25. Section 25 :-

26. Section 26 :-

27. Section 27 :-

28. Section 28 :-

29. Section 29 :-

30. Section 30 :-

31. Section 31 :-

32. Section 32 :-

33. Section 33 :-

34. Section 34 :-

35. Section 35 :-

36. Section 36 :-

37. Section 37 :-

38. Section 38 :-

39. Section 39 :-

40. Section 40 :-

41. Section 41 :-

42. Powers Of The Police, Etc., On The Occasion Of A Fire :-

On the occasion of a fire, any Police Officer above the rank of constable, or any member of the Tamil Nadu Fire Services above the rank of fireman, may --

(a) remove or order the removal of any person who by their presence, interfere with or impede the operations for extinguishing the fire or for saving life or property ;

(b) close any street or passage in or near which any fire is burning ;

(c) by himself or those acting under his orders, break into or through, or pull down, or use for the passage to hoses or other appliances, any premises for the purpose of extinguishing the fire, doing as little damage as possible ;

(d) cause the mains and pipes of any area to be shut off so as to give greater pressure of water in the place where the fire has

occurred ;

(e) call on the persons in-charge of any fire-engine to render such assistances as may be possible; and

(f) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of the Tamil Nadu Fire Services or of any fire-brigade or by Police Officers or their assistants in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire. But nothing in this section shall exempt any Police Officer or any member of the Tamil Nadu Fire Services or of any fire-brigade from liability to damages on account of any acts done by without reasonable cause.

42A. Deputation Of Police Officers To Be Present In Assembly, Meeting Or Procession In Public Places :-

1 [42-A.Deputation of Police Officers to be present in assembly, meeting or procession in public places

(1)Any Police Officer not below the rank of Deputy Superintendent of Police may, in the interest of public order, depute by order in writing one or more Police Officers or other persons to be present in any assembly, meeting or procession, in any public place for the purpose of causing a report to be taken of the proceedings.]

(2)Nothing in sub-section (1) shall apply to any assembly or meeting of a purely religious character held in a recognised place of worship, any assembly or meeting gathered together purely for the purpose of taking part in sports, any procession on the occasion of any wedding, funeral or similar domestic occurrence, or of any religious ceremony, or to any public meeting held under any statutory or other express legal authority, or any public meeting or class of public meetings exempted for that purpose by the State Government by general or special order.

Explanation--For the purposes of this section --

(a) the words "assembly", "meeting" and "procession" include any assembly, meeting or procession which is open to the public or to any class or portion of the public;

(b) a place in which assembly or meeting is held may be a public place notwithstanding that admission thereto may have been restricted by ticket or otherwise.

1. Inserted by Section 2 of the Madras District Police (Amendment) Act No. 18 of 1963.

43. Penalty For False Alarm Of Fire :-

Whoever gives or causes to be given to any fire-brigade or to any member thereof or to any member of the Tamil Nadu Fire Services, whether by means of a street fire-alarm, statement, message or otherwise, any alarm of fire which he knows to be false, shall be liable on conviction to fine which may extend to fifty rupees.

Whoever is convicted under this section, after having been previously convicted either under this section or under Section 62-A

of the Madras City Police Act, 1888,

44. Penalties For Neglect Of Duty, Etc :-

Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order may by competent authority or who shall ceases to perform the duties of his office without leave, or without having given two months notice as provided by this enactment, or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate as provided by law, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months pay, or to imprisonment with or without hard labour not exceeding three months, or both.

45. Penalty For Receiving Unauthorized Fees, Etc :-

Any Police Officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense other than he may be duly authorised by the Director-General of Police or other officer acting under this order to collect or receive shall, on conviction before a Magistrate be liable to a penalty not exceeding six months pay, or to imprisonment, with or without hard labour, not exceeding six months, or both.

46. Penalty For Extortion, Etc :-

Any Police Officer who shall directly or indirectly extort, extract, seek or obtain any bribe or unauthorised reward or consideration, by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences above said or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months pay, or to imprisonment with or without

hard labour not exceeding twelve months, or both ;

Committal by Magistrate of serious cases-- Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

47. Penalty For Offences Against Police Officer :-

If any person shall assault or resist any Police Officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police Officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months or both.

48. Repealed :-

Repealed by Madras Act III of 1889.

49. Repealed :-

Repealed by Madras Act V of 1896.

50. Enquiry Into Charges Against Certain Police Officers :-

Any charge against a Police Officer above the rank of constable under this Act shall be enquired into and determined only by an officer exercising the powers of an Executive Magistrate.

51. Proviso :-

Liability to prosecution for higher penalties-- Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act :

Provided always that no person shall be punished twice for the same offence.

52. Levy Of Fines :-

All fines and penalties imposed and all sums of money recoverable under the authority of this Act, may, in case of non-payment

thereof, be levied by distress and sale of the movable property of the offender by warrant of the Magistrate.

53. Limitation Of Action :-

All actions and prosecutions against any person which may be lawfully brought for anything done or intended to be done, under the provisions of this Act, or under the provisions of any other law for the time being in force conferring powers on the Police shall be commenced within three months after the act complained of shall have been committed and not otherwise ; and notice in writing of such action and of the cause thereof shall be given to the defendant; or to the Superintendent, or other superior officer of the district in which the act was committed, one month at least before the commencement of the action ; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant ; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant unless the Judge, before whom the trial shall be, certify his approbation of the action :

Bar to action-- Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

54. Plea That Act Was Done Under Warrant :-

When any action, prosecution or proceeding shall be brought against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate ; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt it being genuine :

Saving of remedy against issue of warrant-- Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

54A. Power Of State Government To Extend Certain

Provisions Of Act To Any Town :-

(1) The State Government may, by notification in the Official Gazette extend to any town all or any of the provisions of the Madras City Police Act, 1888, mentioned in the Schedule and may declare such extension to be subject to such modifications as they think fit.

(2) The State Government may, by notification in the Official Gazette cancel or modify any such notification as is referred to in sub-section (1).

55. Operation Of Act :-

This Act shall take effect in any and every such district as the State Government shall appoint by notification published in the Official Gazette.

SCHEDULE 1

SCHEDULE I

[see Section 54-A]

Definitions of "imprisonment", "Gaming", "Instruments of gaming", common gaming house" and "conviction" [in Section 3] Sections 23, 24, 26 28 33, 34-A 48, 50, 63, 64, , 65 and 66, clauses (iii), (iv), (v), (vi), (vii), (viii), (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Section 71 and Sections 73, 74, 77, 78, 79 and 80.

Form 4 - FORM A

FORM A

(See Section 11)

A. B. has been appointed a member of the Police force under the Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police Officer.