

CHAPTER II

THE PRISONERS ACT, 1900 (III OF 1900)

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THE PRISONERS ACT, 1900**Act No. III of 1900**

(As modified up to 1st Nov., 1956)

(2nd February, 1900)

An Act to consolidate the law relating to Prisoners confined by order of a Court

Whereas it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

PART I—PRELIMINARY

1. (1) This Act may be called the Prisoners Act, 1900. Short title and extent.

(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States* other than the Madhya Bharat and Sironj regions of the State of Madhya Pradesh.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(a) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) "Prison" includes any place which has been declared by the State Government, by general or special order, to be a Subsidiary Jail; and

(c) "States" means the territories to which this Act extends.

PART II—GENERAL

3. The Officer in-charge of a prison shall duly receive and detain all persons duly committed to his custody, under this act or otherwise by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law. Officers in-charge of prisons to detain persons duly committed to their custody.

4. The Officer in-charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, Officers in-charge of prisons to return writs, etc., after execution or discharge.

*Added by Madhya Pradesh Extention of Laws Act, 1958 (No. 23 of 1958).

order or warrant to the Court by which the same was issued or made, together with a certificate endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART III—PRISONERS IN THE PRESIDENCY TOWNS

Warrants, etc., to be directed to Police Officers.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police Officer within the local limits of such jurisdiction.

Power for State Government to appoint Superintendents of Presidency prisons.

6. The State Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this part.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as “the Superintendent”.

Delivery of persons sentenced to imprisonment or death by High Court.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent, together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to transportation by High Court.

8. Where any person is sentenced by the High Court in the exercise of his original criminal jurisdiction to transportation the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation of such person shall be deemed to commence from such delivery.

Delivery of persons committed by High Court in execution of a decree or for contempt.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause, him to be delivered to the Superintendent together with its warrant of commitment.

Delivery of persons sentenced by presidency Magistrates.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of person committed for trial by High Court.

11. Every person committed by a Magistrate, or Justice of the Peace for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superin-

tendent together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure (XIV of 1882) of any application for a declaration to insolvency, cause the Judgement debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of section 349 of the said Code, and the Superintendent shall detain the said judgement-debtor in safe custody until he is redelivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.

13. (1) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which or by a judge of which the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction,

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency town.

(2) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall unless a Judge of the said Court otherwise directs be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV—PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. In this part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this part to prisons, etc., to be construed as referring also to Reformatory Schools.

15. (1) Officers in-charge of prisons outside the Presidency towns may give effect to any sentence or order or warrant for the detention of any person passed or issued—

Power for officers in-charge of prisons to give effect to sentences of certain Courts.

(a) by any Court or tribunal acting, whether within

or without the states under the general or special authority of the Central Government, or of any State Government, or of the Government of Burma, or by any Court or tribunal, which was before the commencement of the Constitution acting under the general or special authority of His Majesty, or the Crown Representative; or

(b) Before the 26th January, 1950, by any Court or tribunal in any Indian State :—

- (i) if the Presiding Judge, or if the Court or tribunal consisted of two or more Judges, at least one of the Judges, was an officer of the Crown authorised to sit as such Judge by the State or the Ruler thereof or by the Central Government or the Crown Representative; and
- (ii) if the reception, detention or imprisonment in any Province of India of persons sentenced by any such Court or tribunal had been authorised by general or special order by the State Government;

Provided that effect shall not be given to any sentence or order or warrant for detention passed or issued by any Court or tribunal in Burma without the previous sanction of the State Government concerned.

(2) Where a Court or tribunal of such an Indian State as aforesaid had passed a sentence which could not have been executed without the concurrence of an officer of the Crown, and such sentence had been considered on the merits and confirmed by any such officer specially authorised in that behalf, such sentence, and any order of warrant should in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Central Government or the Crown Representative.

Warrant of officer of such Court to be sufficient authority.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

17. (1) Where an officer in-charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the State Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where officer in-charge of prison doubts the legality of warrant sent to him for execution under this Part.

(2) Pending a reference made under sub-section (1) the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

18. (1) Where a Court established by the authority of the Central Government exercising, in or with respect to territory beyond the limits of the States jurisdiction which the Central Government has in such territory.—

Execution in the States of certain capital sentences not ordinarily executable there.

(a) has sentenced any person to death, and

(b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and human manner, be executed in the States has issued its warrant for the execution of such sentence to the officer in-charge of a prison in the States such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

(2) The prisons of which the officer in-charge are to execute sentences under any such warrants aforesaid shall in such State be such as the State Government may by general or special order direct.

PART V—PERSONS UNDER SENTENCE OF PENAL SERVITUDE

19-27. Repealed by the Criminal Law (Removal of Racial Discrimination) Act, 1949 (No. 17 of 1949).

PART VI—REMOVAL OF PRISONERS

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this part to prisons, etc. to be construed as referring also to Reformatory Schools.

Removal of prisoners.

29. (1) The State Government may, by general or special order, provide for the removal of any prisoner confined in a prison—

(a) under sentence of death, or

(b) under, or in lieu of a sentence of imprisonment or transportation, or

(c) in default of payment of a fine, or

(d) in default of giving security for keeping the peace or for maintaining good behaviour;

to any other prison in the State.

(2) Subject to the orders, and under the control of the State Government the Inspector General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the State to any other prison in the State.

Lunatic prisoners how to be dealt with.

30. (1) Where it appears to the State Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the State Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the State, there to be kept and treated as the State Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment then until he is discharged according to law.

(2) Where it appears to the State Government that the prisoner has become of sound mind, the State Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remove him to the prison from which he was removed or to another prison within the State, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of the Lunatic Asylum Act, 1858 shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

(4) In any case in which the State Government is competent under sub-section (1) to order the removal of a prisoner

to a lunatic asylum or other place of safe custody within the State, the State Government may order his removal to any such asylum or place within any other State or within any part of India to which this Act does not extend by agreement with the State Government of such other State and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.

31. Removal of prisoners from territories under one Local Government to territories under another (Repealed by S-4 and Sch. III of the Amending Act, 1903 (1 of 1903).

PART VI—A*

31-A The State Government or any authority to which the State Government may delegate its powers in this behalf may, subject to such conditions as may be prescribed by rules, release temporarily for a period not exceeding ten days in a year excluding the time required for journeys and the days of departure from, and arrival at, the prison, any prisoner who has been sentenced to a term of imprisonment of not less than three years.

Temporary release of prisoners.

(2) The provisions of sub-section (1) shall not apply to prisoner who has been classified as an habitual criminal for the purpose of the rules for the time being in force made under the Prisons Act, 1894 and who has more than three previous convictions.

(3) No prisoner shall be released under sub-section (1) unless—

- (a) he has, at the time of his release, served one half of his sentence including remission, or a period of not less than 2 years of his sentence, including remission, whichever is less.
- (b) his conduct in prison has been good; and
- (c) twelve months have elapsed from the date of the expiry of the period of his previous release, if any, under this section.

(4) The period of release of a prisoner under sub-section (1) shall not count towards the total period of his sentence.

31-B. (1) On the expiry of the period for which a prisoner was released under sub-section (1) of section 31-A he shall surrender himself to the officer in-charge of the prison from which he was released.

Surrender by prisoner after release period.

*C. P. & Perar (Act IV of 1939) has added par. VI-A-31-A to 31-C.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

Penalty.

31-C. Any prisoner who does not surrender himself as required by sub-section (1) of section 31-B shall be liable upon conviction to be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

PART VII—PERSONS UNDER SENTENCE OF TRANS.

Appointment of places for confinement of persons under sentence of transportation and removal there-to.

32. (1) The State Government may appoint places within the State to which persons under sentence of transportation shall be sent; and the State Government or some officer duly authorised in this behalf by the State Government, shall give orders for the removal of such person to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

(2) In any case in which the State Government is competent under sub-section (1) to appoint places within the State and to order the removal thereto of persons under sentence of transportation, the State Government may appoint such places in any other State by agreement with the State Government of that State, and may by like agreement give orders or duly authorise some officer to give orders for the removal thereto of such persons.

PART VIII—DISCHARGE OF PRISONERS

Release, on recognition by order of High Court of prisoner recommended for pardon.

33. Any High Court may in any case in which it has recommended to Government the granting of free pardon to any prisoner, permit him to be at liberty on his own recognizance.

PART IX—PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE

Repeals.

34-52. Repealed by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955).

53. Repealed by the Repealing and Amending Act, 1914 (10 of 1914).

The First Schedule—

Repealed by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955).

The Second Schedule—Repealed by Section 10 *ibid.*

The Third Schedule—Repealed by the Repealing and Amending Act, 1914 (10 of 1914)