

THE NAGALAND ACT 12 OF 1967

[THE NAGALAND HABITUAL OFFENDERS ACT, 1967]

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An Act to provide fore the treatment and training of habitual offenders.

It is hereby enacted in the Eighteenth Year of the Republic off India as follows: -

CHAPTER I PRELIMINARY

Short title, extent and commencement. – 1. (1) This Act may be called the Nagaland Habitual Offenders Act, 1967.

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

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint.

Definition. – 2. In this Act, unless the context otherwise requires: -

(a) ‘corrective settlement’ means any place established, approved or certified as a corrective settlement under section 13;

(b) ‘habitual offender’ means a person who during any continuous period of five years, whether before or after the commencement of this Act or partly after such commencement of this Act, has been sentenced on conviction on not less than three occasions since he attained the age of eighteen years to a substantive term of imprisonment for any one or more of the scheduled offences committed on different occasions and not so connected together as to form parts of the same transactions, such sentence not having been reversed in appeal or on revision:

Provided that in computing the continuous period of five years referred to above any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account;

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

- (d) 'registered offender' means a habitual offender registered or re-registered under this Act;
- (e) 'scheduled offence' means an offence specified in the schedule or an offence analogous thereto.

CHAPTER II

REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTIOJN ON THEIR MOVEMENTS

Powers of State Government to direct registration of habitual offenders. – 3. The State Government may direct the Deputy Commissioner to make a register of habitual offenders within his district by entering therein the names and other prescribed particulars of such offenders.

4. For the purpose of carrying out the direction given under section 3 the Deputy Commissioner or any officer appointed by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the district-

- (a) to appear before him at a time and place therein specified;
- 9b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of habitual offender in the register; and
- (c) to allow his finger and palm impressions, footprints and photograph to be taken:

Provided that the name and other prescribed particulars of a habitual offender shall not be entered in the register unless he has been afforded reasonable opportunity of showing cause why such entry should not be made.

Charge of register and alteration therein. – 5. (1) The register shall be placed in the keeping of the Superintendent of Police who shall from time to time, report to the Deputy Commissioner any alterations which ought in his opinion to be made therein.

(2) After the register has been placed in the keeping of the Superintendent of Police, no fresh entry shall be made in the register, nor shall any entry be cancelled, except by, or under any order in writing of the Deputy Commissioner.

Power to take finger and palm impression, foot prints and photographs at any time. – 6. The Deputy Commissioner or any officer appointed by him in this behalf may at any time order the finger and palm impressions, foot prints and photographs of any registered offender to be taken.

Registered offenders to notify change of residence and to report themselves. – 7.

(1) Every registered offender shall notify to such authority and in such manner as may be prescribed any change or intended change of his ordinary residence:

Provided that where such offender changes or intends to change his ordinary residence to another district (whether within the same State or not) he shall notify the change or intended change to the Deputy Commissioner.

(2) The Deputy Commissioner may by order in writing direct that any registered offender shall-

- (a) report himself once in each month or where the Deputy Commissioner for reasons specified in the order to direct, more frequently, to such authority and in such manner as may be specified;
- (b) notify any absence or intended absence from his ordinary residence to the aforesaid authority:

Provided that the Deputy Commissioner may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period and under such conditions as to him may appear reasonable.

Migration of offender from one to another district. – 8. (1) Where any registered offender changes his ordinary residence to another district within this State, the Deputy Commissioner of the district in which the offender is registered shall inform the Deputy Commissioner of the other district about such change and at the same time furnish him with the name and other particulars of the registered offender.

(2) On the receipt of such information the Deputy Commissioner of the other district shall enter in his register the name and other particulars of the registered offender and inform the Deputy Commissioner of the first district about such registration and thereupon such Deputy Commissioner shall cancel from his register the entry relating to the at offender:

Provided that where a registered offender changes his ordinary residence to another district outside this State, Deputy Commissioner of the first district shall, while furnishing the District Magistrate of the other of the other district with the name and other particulars of the registered offender make a request to that District Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law for the time being in force in that other district and upon the receipt of such information the Deputy Commissioner of the first district shall cancel from his register the entry relating to that offender.

(3) Upon the entry of the name and other particulars of a registered offender in the register under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

Duration of registration and re-registration of habitual offenders. – 9. (1) The registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration and on such cancellation or expiry the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation, or expiry of duration, or registration a habitual offender may be re-registered in accordance with the provisions of this Act relating to relating to registration as often as he is convicted of one or more of the scheduled offences at any time after such cancellation, or expiry and the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Notwithstanding anything contained in sub-section (1) and (2) where a registered offender is, during the period of registration or re-registration convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extend for a period of five years from the date of his release from such imprisonment.

Right to make representation etc.- 10. (1) Any person deeming himself aggrieved by the registration or re-registration, of his name under section 4 or, as the case may be, under section 9 or by an order under sub-section (2) of section 7 may within the prescribed period make a representation to the State Government against such registration, re-registration or order.

(2) The State Government shall, after considering the representation and giving the aggrieved person an opportunity of being heard, either confirm or cancel the registration, re-registration or order, as the case may be and shall in the case of confirmation record a brief statement of the reasons thereof.

Power to restrict movements of registered offenders. – 11. (1) If, in the opinion of the State Government it is necessary or expedient in the interest of the general public so to do, the State Government may by order direct that any registered offender shall be restricted in his movements to such area and for such period not exceeding three years as may be specified in the order.

(2) Before making any such order the State Government shall take into consideration the following matters, namely: -

- (a) the nature of the offences of which the registered offender has been convicted and the circumstances in which the offences were committed;
- (b) whether the registered offender follows any lawful occupation and whether such occupation is conducive to honest and settled way of life and is not merely a pretence for the purpose of facilitating commission of offences;
- (c) the suitability of the area to which his movements are to be restricted; and
- (d) the manner in which the registered offender may earn his living within the restriction area and the adequacy of arrangements which are or likely to be, available therefor.

(3) A copy of the order shall be served on the registered offender in the prescribed manner.

Power to cancel or alter restriction of movements. – 12. The State Government may, by order, cancel any order made under section 11 or alter any area specified in an order under that section:

Provided that before making such order the State Government shall consider the matters referred to in sub-section (2) of section 11 in so far as they may be applicable.

CHAPETER III

CORRECTIVE TRAINING OF HABITUAL OFFENDERS

13. (1) The State Government may, by notification in the Official Gazette, establish and maintain in the State as many corrective settlements as it thinks fit for the purpose of placing therein such habitual offenders as are directed to received corrective training under this Act.

(2) The State Government may also approve or certify any privately – managed institution (whether known as settlement or otherwise) as a corrective settlement for the purpose of this Act.

Power to direct habitual offender to receive corrective training. – 14. (1) Where the State Government is satisfied from the report of the Deputy Commissioner or otherwise that it is expedient with a view to the reformation of a registered offender and the prevention of crime that the registered offender should receive training of a corrective character for a substantial time, the State Government may by order in writing direct that the registered

offender shall receive training of a corrective character for such period not exceeding the duration of his registration or re-registration as may be specified in the order.

(2) Where a habitual offender who is not more than forty years of age.

(a) is convicted of any offences punishable with imprisonment, or

(b) is required in pursuance of section 110 of the Code of the Criminal Procedure 1898 to execute a bond for his good behavior, and the court or the Magistrate is satisfied from the evidence in the case and other materials or record that it is expedient with a view to his reformation and prevention of crime that he should receive training of a corrective character for substantial time, the court or the Magistrate may, in lieu of sentencing him for such offence or, as the case may be, requiring him to execute such bond direct that he shall receive corrective training for such term or not less than two or not more than five years as the court or the Magistrate may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2) the State Government or the court or the Magistrate, as the case may be, shall-

(a) take into consideration the physical and mental condition of the offender and his suitability for receiving corrective training in a corrective settlement, and

(b) give a reasonable opportunity to the offender to show cause why such direction should not be given.

(4) A habitual offender in respect of whom a direction to receive corrective training has been made shall be placed in a corrective settlement for the term of his training and while in such settlement shall be treated in such manner as may be prescribed.

Power to transfer from corrective settlement. – 15. The State Government or any officer authorized by it in this behalf may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for failure to comply with certain provisions of the Act.- 16. A habitual offender who without lawful excuse, the burden of proving which shall lie upon him –

(a) fails to appear in compliance with a notice issued under section 4, or

- (b) intentionally omits to furnish any information required under that section or furnishes as true any information which he knows, or has reason to believe to be false or does not believe to be true, or
- (c) refuses to allow his finger and palm impressions, foot prints and photographs to be taken by any person acting under an order passed under section 6, or
- (d) fails to comply with the provisions of sub-section (1), or with an order of the Deputy Commissioner under sub-section (2) of section 7 or with an order of the State Government under section 11, may be arrested without warrant and shall be punishable –
 - (i) on 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, and
 - (ii) on 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:

Provided that if the court after taking into consideration the offender's age and physical and mental condition and his suitability for receiving training of corrective character in a corrective settlement is satisfied that it is expedient with a view to his reformation and the prevention of crime that he should received training of corrective character for a substantial time the court may in lieu of sentencing the offender to any punishment under this section, after giving him an opportunity of showing cause, that he shall receive corrective training in a corrective settlement for such term not exceeding three years as it may determine.

Arrest of persons outside restriction area or corrective homes. – 17. If any person

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- (a) is found outside the area to which his movement have been restricted, in contravention of the conditions under which he is permitted to leave such area, or
- (b) escapes from any corrective settlement in which he is placed, he may be arrested without warrant by a police officer, village headman or village authorities and taken before a Magistrate who, on proof on the facts, may order him to be removed to such area or to such corrective settlement there to be dealt with in accordance with this Act and the rules made thereunder.

CHAPTER V

MISCELLANEOUS

Bar of Jurisdiction. – 18. No court shall question the validity of any direction or order issued under this Act.

Bar of legal proceedings. – 19. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to delegate. – 20. The State Government may, by notification in Official Gazette, direct that any power exercisable by it under this Act except the power under section 21 may also be exercised subject to such condition, if any, as may be specified in the notification, by such officer not below the rank of a Deputy Commissioner as may be specified therein.

21. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely: -

- (a) the form of notice under section 4 and the manner in which such notice may be served;
- (b) the form of the register of habitual offenders and the particulars to be entered therein;
- (c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under sub-section (1) of section 7;
- (d) the nature of restrictions to be observed by registered offenders whose movements have been restricted;
- (e) the grant of certificate of identity to registered offenders and inspection of such certificates;
- (f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlements in which they have been placed;
- (g) the terms upon which offenders may be discharged from corrective settlements;
- (h) the working, management, control and supervision of corrective settlements including the discipline and conduct of persons placed therein;

- (i) the conditions for, and the manner of, approving or certifying privately managed settlements;
- (j) the appointment of non-official visitors for corrective settlement;
- (k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement;
- (l) the periodical review of the cases of all persons whose movements have been restricted or who are placed in corrective homes under this Act;
- (m) any other matter which is to be or may be prescribed under this Act.

(3) In making rules under this Act the State Government may provide that a contravention of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of seven days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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