

THE ANDHRA PRADESH HABITUAL OFFENDERS ACT, 1962

Act No.4 of 1962

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THE ANDHRA PRADESH HABITUAL OFFENDERS ACT, 1962

Act No. 4 of 1962

[9th February, 1962]

AN ACT TO PROVIDE FOR THE TREATMENT AND TRAINING OF HABITUAL OFFENDERS

BE it enacted by the Legislature of the State of Andhra Pradesh in the Thirteenth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement - (1) This Act may be called the Andhra Pradesh Habitual Offenders Act, 1962.

(2) It extends to the whole of the State of Andhra Pradesh.

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

2. Definitions - In this Act, unless the context otherwise requires,-

(a) 'Code' means the ¹[Code of Criminal Procedure, 1898 (Central Act 5 of 1898)];

(b) 'corrective settlement' means any place established, approved or certified as a corrective settlement under section 13.

(c) 'District Collector' means the chief local officer in charge of the revenue administration of a district but in relation to the cities of Hyderabad and Secunderabad the Commissioner of Police;

(d) 'Government' means the State Government;

(e) 'habitual offender' means a person who, during any continuous period of five years, whether before or after the commencement of this Act or partly before and partly after such commencement has been sentenced on conviction on not less than three occasions after 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 transaction, 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.

Explanation - An order requiring a person to give security for good behaviour with reference to ¹[section 110 of the Code] shall be deemed to amount to a sentence of substantive imprisonment within the meaning of this clause;

(f) 'prescribed' means prescribed by rules made under this Act;

(g) 'registered offender' means a habitual offender registered or re-registered under this Act;

(h) 'scheduled offence' means an offence specified in the Schedule or an offence analogous thereto;

¹. See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(i) 'State' means the State of Andhra Pradesh;

(j) 'Superintendent of Police' means the District Superintendent of Police in the district concerned and in relation to the cities of Hyderabad and Secunderabad any officer appointed by the Government to perform the duties of a Superintendent of Police under this Act.

CHAPTER II REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTION OF THEIR MOVEMENTS

3. Power of Government to direct registration of habitual offenders - The Government may direct the District Collector to make a register of habitual offenders within his district by entering therein the names and other prescribed particulars of such offenders.

4. Power of the District Collector to register habitual offenders - For the purpose of carrying out the direction given under section 3 the District Collector or any officer authorised 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;

(b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of the 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.

5. Custody of register and alterations herein - (1) The register shall be placed in the custody of the Superintendent of Police who shall, from time to time, report to the District Collector any alterations to be made therein.

(2) After the register is placed in the custody of the Superintendent of Police, no fresh alteration shall be made in the register except under an order in writing of the District Collector.

6. Power to take finger and palm impressions foot-prints and photographs at any time - The District Collector or any officer authorised 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.

7. Registered offenders to notify change of residence and to report themselves - (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 State or not, he shall notify the change or intended change to the District Collector.

(2) The District Collector may by order in writing direct that any registered offender shall—

(a) report himself once in every month or where the District Collector for reasons specified in the order so directs, more frequently to such authority and in such manner as may be specified in the order; and

(b) notify any absence or intended absence from his ordinary residence to the aforesaid authority:

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

8. Action to be taken when registered offender changes his ordinary residence from one district to another within or without the State - (1) Where any registered offender changes his ordinary residence from one district to another district within the State, the District Collector of the district in which the offender is registered shall inform the District Collector 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 District Collector of the other district shall enter in his register the name and other particulars of the registered offender and inform the District Collector of the district in which the offender is previously registered about such registration and thereupon the District Collector of that district shall cancel from his register the entry relating to that offender.

(3) Where a registered offender changes his ordinary residence to another district outside the State, the District Collector of the district in which the offender is previously registered shall, while furnishing the District Collector of the other district with the name and other particulars of the registered offender, request that District Collector to inform him 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 District Collector of the district in which the offender is previously registered shall cancel from his register the entry relating to that offender.

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

9. Duration of registration and re-registration of habitual offenders - (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 of registration, a habitual offender may be re-registered in accordance with the provisions of this Act 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 sections (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 re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

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

(2) The 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 therefor.

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

(2) Before making any such order, the 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 such 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.

12. Power to cancel or alter such restrictions - The 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 Government shall consider the matters referred to in sub-section (2) of section 11 in so far as they may be applicable.

CHAPTER III CORRECTIVE TRAINING OF HABITUAL OFFENDERS

13. Power to establish and maintain corrective settlements and to certify private institutions as corrective settlements - (1) The Government may by notification in the Andhra Pradesh Gazette, establish and maintain in the State as many corrective settlements as they think fit for the purpose of placing therein such habitual offenders as are directed to receive corrective training under this Act.

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

14. Power to direct habitual offenders to receive corrective training - (1) If the government are satisfied from the report of the District Collector or otherwise that it is expedient with a view to the reformation of a registered offender and the prevention of crime that he should receive training of a corrective character for a substantial term, the 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 offence punishable with imprisonment, or

(b) is required in pursuance of ¹[section 110 of the Code] to execute a bond for his good behaviour,

and the court is satisfied from the evidence in the case and other materials on 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 a substantial term, the court may, in lieu of sentencing him for offence or, as the case may be, requiring him to execute such bond, direct that he shall receive corrective training for such term of not less than two and not exceeding five years as the court may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2), the Government or the court, 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 shall not be given.

(4) A habitual offender, in respect of whom a direction to receive corrective training is 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.

15. Power to discharge or transfer persons from corrective settlements - The Government or any officer authorised by them in this behalf may, at any time, by order in writing direct any habitual offender who may be in a corrective settlement to be discharged or transferred to another corrective settlement.

16. Power to subject voluntary residents in corrective settlements to restrictions and penalties - The Government may, by order, direct that any person voluntarily residing in any corrective settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act, on a habitual offender placed in such settlement.

CHAPTER IV PENALTIES AND PROCEDURE

17. Penalty for failure to comply with certain provisions of the Act - 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 photograph 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 District Collector under sub-section (2) of section 7 or with an order of the Government under section 11, may be arrested without warrant and shall be punishable -

¹. See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(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 a second or subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both:

Provided that if the court after taking into consideration the offenders age and physical and mental condition and his suitability for receiving training of a corrective character in corrective settlement is satisfied that it is expedient with a view to his reformation and prevention of crime that he should receive training of a corrective character for a substantial term, the court may, in lieu of sentencing the offender to any punishment under this section, direct, 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.

18. Arrest of habitual offenders found outside the restriction area or corrective settlement - If any habitual offender -

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

(b) escapes from any corrective settlement in which he is placed, he may be arrested without warrant by a police officer, village headman or village watchman. If the offender is arrested, he shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate; and the offender shall not be detained beyond the said period without the authority of a magistrate. The magistrate may on production of the offender and on proof of the facts order him to be removed to such area or to such corrective settlement to be dealt with in accordance with this Act and the rules made thereunder.

CHAPTER V MISCELLANEOUS

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

20. Bar of legal proceeding - No suit, prosecution or other legal proceeding shall lie against any person for any thing which is in good faith done or intended to be done under this Act.

21. Power to delegate - The Government may, by notification in the Andhra Pradesh Gazette, direct that any power exercisable by them under this Act except the power under section 22 may also be exercised subject to such conditions, if any, as may be laid down in the notification, by such officer not below the rank of a District Collector as may be specified therein.

22. Power to make rule - The Government may, by notification in the Andhra Pradesh 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 the 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 the offenders may be discharged from corrective settlements;
- (h) the working, management, control and supervision of corrective settlements including the discipline and conduct of the offenders placed therein;
- (i) the conditions for, and the manner of, approving or certifying privately-managed settlements;
- (j) the appointment of non-official visitors to the corrective settlements;
- (k) the conditions and circumstances under which members of the families of the offenders may be permitted to stay with them in a corrective settlement;
- (1) the periodical review of the cases of all the offenders whose movements have been restricted or who are placed in corrective settlements 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 Government may provide that a contravention of any of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) All rules made under this Act shall, as soon as may be after they are made, be laid for not less than fourteen days before both Houses of the State Legislature and shall be subject to such modifications, whether by way of repeal or amendment, as the State Legislature may make during the session in which they are so laid.

23. Repeals and savings - The Andhra Pradesh (Andhra Area) Restriction of Habitual Offenders Act, 1948 (Act VI of 1948), and the Andhra Pradesh (Telangana Area) Habitual Offenders (Restriction and Settlement) Act, 1954 (Act XXII of 1954), are hereby repealed; but such repeal shall not affect the previous operation of the said Acts or anything done or suffered thereunder, and subject thereto, anything done or any action taken under the provisions of the said Acts shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken, under the provisions of this Act, as if the said provisions were in force when such thing was done or such action was taken and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.