

PENAL RECOGNIZANCES ACT 1848

ACT No. V. Of 1848

(Rep., Act 17 of 1862)

[4th March, 1848.]

Passed by the Right Hon'ble the Governor General of India in Council, On the 4th March, 1848

An Act to amend the Law regarding the taking of Mahulkas or Penal Recognizances.

It is hereby enacted, the Section 4, Regulation IV. of 1825, of the Bengal Code, is repealed.

II. And it is hereby enacted, that in the Territories subject to the Presidency of Bengal, it shall be lawful for the Zillah and City Magistrates and Joint Magistrates to take Mochulkas or Penal Recognizances in the form annexed to this Act, as well from British subjects as from other persons in all cases wherein it may appear just and necessary to require the same for the maintenance of the peace in their respective jurisdictions although the party to be bound in such recognizances may not have been convicted of any specific offence, provided that the amount of the recognizance in all such cases shall be proportionate to the condition in life of the said party and to the circumstances of the case.

III. And it is hereby enacted, that in cases of an aggravated nature wherein it may appear necessary to require security for keeping the peace in addition to the recognizance of the party, it shall be lawful for such Magistrates to direct the same and to fix a reasonable amount for the security bond to be executed in the form annexed to this Act by the surety or sureties.

IV. And it is hereby enacted, that whenever it shall appear to the Magistrate that the period for which the party should be bound to keep the peace with or without additional security, need not exceed one year, it shall be lawful for him, without reference to superior authority, to give directions accordingly, and in default of such recognizance or additional security, to commit the party to prison in the Civil Jail until he shall do what has been required of him.

V. And it is hereby enacted, that whenever it shall appear to the Magistrate that the period for which the party should be bound to keep the peace with or without additional security, ought to exceed the period of one year, the Magistrate shall record his opinion to that effect with an order specifying the amount of recognizance and security as well as the number of sureties which should in his judgment be required, and the period for which the recognizance and security should be required, which however shall in no case exceed three years. If the party shall not furnish the recognizance and security so required, the proceedings shall be laid before the Sessions Judge, who, after examining them and calling for any further information which he may think necessary, shall pass orders on the case confirming, modifying or annulling the orders of the Magistrate, and if the orders so passed by the Sessions Judge confirm to any extent the requisition for recognizance or securities the Sessions Judge shall direct the Magistrate to commit the party to prison in the Civil Jail until he shall do what has been required of him.

VI. Provided always and it is hereby enacted, that no party shall be kept in prison under the foregoing provisions of this Act for a longer period than that for which the recognizance and securities have given security under this Act.

VII. And it is hereby enacted, that the Provisions contained in Sections V. VI. and VII., of Regulation VIII. of 1818, of the Bengal Code, shall be applicable to all persons confined under the foregoing provisions of this Act, and to all sureties who shall have given security under this Act.

VIII. And it is hereby enacted, that whenever it may be proved before the Magistrate that any such recognizance has been forfeited, he shall proceed to enforce the penalty of such recognizance in the mode prescribed for the satisfaction of decrees of the Civil Court.

IX. And it is hereby enacted, that whenever it may be proved before the Magistrate that any such recognizance has been forfeited if a security bond shall have been taken and the Magistrate shall think that proceedings should be had upon such bond, he shall give notice to the surety or sureties to pay the penalty, or to shew cause why it should not be paid, and if no sufficient cause shall be shewn, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any of his or their property in the mode prescribed for the attachment and sale of property in satisfaction of decrees of the Civil Court, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement by order of the Magistrate in the Civil Jail of the station during a period not exceeding six months.

X. And it is hereby enacted, that all sentences and orders passed under this Act shall be appealable subject to the general provisions which regulate appeals.

XI. And it is hereby enacted, that in the Territories subject to the Presidency of Bengal all Mochulkas and Security Bonds which by force of any Act or Regulation may be taken by Criminal Courts of the East India Company or by Zillah or City Magistrates or Joint Magistrates for keeping the peace or for good behavior, may be enforced in the manner prescribed by Sections VIII. and IX. of this Act.

FORM OF MOCHULKA.

Whereas I _____ inhabitant of _____
Have been called upon to enter into a Machulka to keep the peace for the term of _____ I
hereby bind myself not to commit any act that can occasion a breach of the peace during the said term,
and in case of my making default therein I bind myself to forfeit to Government the sum of Rupees _____
dated _____

FORM OF SECURITY.

Whereas I _____ inhabitant of _____ has _____
Been called upon to give security to keep the peace for the term of _____ I hereby declare myself
surety for the said the he shall not commit any act that can occasion a breach of the peace during the said

term. And in case of his making default therein I hereby bind myself to forfeit to Government the sum
of Rupees dated
