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THE RESTRICTION OF HABITUAL OFFENDERS (PUNJAB) ACT 1918 (V of 1918)

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TEXT

**¹THE RESTRICTION OF HABITUAL OFFENDERS (PUNJAB) ACT
1918**

²(V of 1918)

[26 April 1918]

An
Act

for restricting the movements of habitual offenders in the Punjab and for requiring them to report themselves.

WHEREAS it is expedient to make provision for restricting the movements of habitual offenders in the Punjab and requiring habitual offenders in the Punjab to report themselves, and whereas the previous sanction of the Governor-General in Council has been obtained under section 79(2) of the Government of India Act, 1915, to the passing of this Act: it is hereby enacted as follows:—

1. Title and extent.— (a) This Act may be called the Restriction of Habitual Offenders (Punjab) Act, 1918.

(b) It extends to the Punjab.

2. Scope of order of restriction.— An “Order of restriction” passed under this Act may restrict a person in his movements to any area prescribed in the order; or it may require a person to report himself at times and places and in the mode prescribed in the order; or it may do both.

3. Order of restriction against habitual offenders.— (a) In any case in which a Magistrate may under the provisions of section 110 of the Code of Criminal Procedure, 1898³, as it is at present enacted or as it may from time to time be amended, require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing require such person to show cause why an order of restriction should not be made against him.

(b) **Joint proceedings and record.**— If the Magistrate in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceedings in respect of security and may be entered in and form part of the same record.

¹For Statement of Objects and Reasons, see Punjab Gazette, Part V, dated January 18, 1918, pp. 53-55; for Report of the Select Committee, see *ibid.*, dated February 8, 1918, pp. 59-63; for proceedings in Council, see *ibid.*, dated January 4, 1918, pp. 15-21, dated February 22, 1918, pp. 109-130, and 132-150.

²This Act received the assent of the Lieutenant-Governor of the Punjab on 14th March, 1918; that of the Governor-General on 2nd April, 1918; and, was published in the Punjab Gazette Part V, dated 26th April, 1918, pp. 340-342.

³India Act V of 1898.

4. Procedure in making order of restriction.— When a Magistrate deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow as nearly as may be the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code of Criminal Procedure, 1898¹ :

Provided that—

- (1) the order in writing referred to in section 112 of the said Code shall in addition to setting forth the substance of the information received state the term not exceeding three years during which the order of restriction shall be in force; but it need not state whether the order of restriction shall be an order restricting the person to any area or requiring him to report himself or doing both; and
- (2) for the purposes of section 117(2) of the said Code an order of restriction shall be deemed to be equivalent to an order requiring security for good behaviour.

5. Issue of warrant in lieu of or in addition to summons. Section 90 of the Code of Criminal Procedure.— The provisions of section 90 of the Code of Criminal Procedure, 1898², shall be applicable to proceedings under this Act as if they were proceedings under the said Code.

6. Discharge of person informed against.— If upon enquiry made in accordance with the preceding sections the Magistrate is of opinion that no order of restriction is necessary, the Magistrate shall make an entry to that effect on the record, and if he does not order the execution of a bond for good behaviour he shall if such person is in custody only for purposes of the enquiry release him or if such person is not in custody discharge him.

7. Making of order of restriction.— If upon enquiry as aforesaid the Magistrate is of opinion that an order of restriction should be made against any person in respect of whom the enquiry is being made, the Magistrate shall make an order accordingly:

Provided that he shall not make an order of restriction against any person against whom he makes an order under section 118 of the Code of Criminal Procedure, 1898³, requiring such person to execute a bond for his good behaviour.

Particulars to be specified in order of restriction.— In his order under this section the Magistrate shall state whether the said person shall be restricted in his movements, or shall be required to report himself, or both. The order shall conform to any rules made by the⁴ [Provincial Government] under section 16 and shall specify the area and the nature of the restrictions to be imposed and the places and the times and mode of report, as the case may be.

¹India Act V of 1898.

²India Act V of 1898.

³India Act V of 1898.

⁴Substituted for the words "Local Government" by the Government of India (Adaptations of Indian Laws) Order, 1937, dated 18th March, 1937, published in the Gazette of India (Extraordinary), dated April 1, 1937, pp. 75-344, s. 4 and Table of General Adaptations.

No order of restriction shall be for a term exceeding three years or for a term longer than that specified in the order under section 4.

8. Order of restriction under section 123(3) of Criminal Procedure Code.–

(1) An order passed by a Sessions Judge under section 123(3) of the Code of Criminal Procedure, 1898¹, may substitute for an order requiring security an order of restriction for the same or a less period.

(2) **Order of restriction against convicted offender.–** In any case in which a Court or Magistrate is empowered to take action against any convicted person under section 565 of the Code of Criminal Procedure, 1898², such Court or Magistrate may if it or he thinks fit at the time of passing sentence on such person and in lieu of passing an order under the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiry of such sentence.

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

9. Means of livelihood within area of restriction.– (1) No order shall be made restricting any person to any area unless the Court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within the area of restriction: Provided that before making such order the Court or Magistrate shall record and consider any objection which such person may urge in regard to the area proposed.

(2) **Change of area where means of livelihood insufficient.–** If at any time any person against whom an order of restriction has been passed under this Act satisfies the Court or Magistrate passing the order or the District Magistrate that he has no sufficient means of earning his livelihood within the area to which he is restricted the Court or Magistrate shall change the area.

10. Power to cancel order of restriction.– The District Magistrate may at any time for sufficient reasons to be recorded in writing cancel any order of restriction passed by any Court having jurisdiction in his district.

11. Power to vary area of restriction.– The District Magistrate may at any time change the area to which the movements of any person have been restricted by an order of restriction passed under this Act:

Provided that such person shall be given an opportunity of showing cause why such change should not be made.

12. Power to substitute order of restriction for bond for good behaviour.– When an order requiring security for good behaviour has been made against any person under section 118 of the Code of Criminal Procedure, 1898³ by any Court whether before or after this Act comes into force, the District Magistrate may at any

¹India Act V of 1898.

²India Act V of 1898.

³India Act V of 1898.

time before the period of security has expired substitute therefor an order of restriction:

Provided that—

- (a) the period of the order of restriction shall not exceed the unexpired period of security; and
- (b) no order of restriction shall be passed against any person under this section until he has been given an opportunity of showing cause why such order should not be passed.

13. Appeal.— Any person against whom an order of restriction has been passed by any Magistrate other than a District Magistrate may appeal to the District Magistrate to have the order set aside.

14. Applicability of the Code of Criminal Procedure to appeals and revisions.— The provisions of the Code of Criminal Procedure, 1898¹, shall be applicable to appeals and petitions of revision under this Act as if they were appeals and petitions of revision presented under the said Code.

15. Arrest of person found beyond prescribed limits.— (1) If any person against whom an order of restriction under this Act has been passed is found in any place beyond the area to which his movements have been restricted, without the pass prescribed by the rules made under this Act, or at a time or in a place not permitted by the conditions of his pass, he may be arrested without warrant by any police officer, zaildar, inamdar, village headman or village watchman.

(2) Any person, not being a police officer, making an arrest under this section shall without unnecessary delay make over the person so arrested to a police officer, or, in the absence of a police officer, take or send such person to the nearest police station.

16. Power to make rules.— The ²[Provincial Government] may make rules³ to provide for and regulate—

- (i) the areas to which persons may be restricted under this Act and the nature of the restrictions to be observed by them;
- (ii) the times and places at which and the mode in which persons shall report themselves when required to do so under this Act;
- (iii) the conditions as to holding passes under which persons may be permitted to leave the area to which their movements have been restricted;
- (iv) the conditions to be inserted in any such pass in regard to—
 - (a) the places to which the holder of the pass may or may not go;

¹India Act V of 1898.

²Substituted for the words "Local Government" by the Government of India (Adaptations of Indian Laws) Order, 1937, dated 18th March, 1937, published in the Gazette of India (Extraordinary), dated April 1, 1937, pp. 75-344, s. 4 and Table of General Adaptations.

³Issued vide Notification No. 9859, dated 29th April, 1918, published in the Gazette of India (Extraordinary), dated April 1, 1917, pp. 115-119.

- (b) the persons before whom from time to time he shall be bound to present himself, and
- (c) the time during which he may be absent.

17. Penalties.– (1) Whoever being a person against whom an order of restriction under this Act has been passed violates such order or any rule made under this Act, shall on conviction by a Magistrate of the first class be punished–

- (a) on a first conviction with imprisonment of either description for a term which may extend to one year, or with fine, or with both;
- (b) on a second conviction with imprisonment of either description for a term which may extend to two years;
- (c) on any subsequent conviction with imprisonment of either description for a term which may extend to three years.

(2) **Period of imprisonment to be excluded from period of order of restriction.**– In computing the period for which an order of restriction shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (1) of this section shall be excluded.