THE PRISONERS ACT, 1900

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THE PRISONERS ACT, 1900

ACT NO. 3 OF 1900[1]

[2*nd 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. Short title and extent.—(*1*) This Act may be called the Prisoners Act, 1900;

[2][(2) It extends to the whole of India except [3][the territories which, immediately before the 1st November, 1956, were comprised in Part B States.] [4]***

[4] * * * * *

STATE AMENDMEMT

Maharashtra

Amendment of section 1 of Act III of 1900.—In the Prisoners Act, 1900, in the application to the State of Bombay, in sub-section (2) of section 1, after the words and letter "comprised in Part B States" the words "other than the Hyderabad and Saurashtra areas of the State of Bombay" shall be added.

[*Vide* Bombay Act XV of 1959, s. 4]

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

(*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.

[5][(*c*) "States" means the territories to which this Act extends.]

1. The Act has been amended in its application to—
(*1*) C'P. and Berar by the C.P. and Berar Prisoners (Amendment) Act, 1939 (C.P. and Berar Act 4 of 1939).
(*2*) Bihar by Bihar Act 23 of 1956.
(*3*) Madras by Madras Act 11 of 1958.
(*4*) Bombay by Bombay Act 15 of 1959 (when notified).
(*5*) N.E.P.A. by Reg. 3 of 1960, s. 3 and the Schedule.
The Act has been extended to—
(*1*) Whole of Madhya Pradesh by M. P. Act 23 of 1958 (when notified).
(*2*) Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and the Schedule (w.e.f. 1-2-1964).
(*3*) Dadra and Nagar Haveli (w.e.f. 1-7-1965) by Reg. 6 of 1968 s. 2 and The First Schedule.
(*4*) Lakshadweep (w.e.f. 1-10-1967): *vide* Reg. 8 of 1965, s. 3 and the Schedule.
(*5*) Pondicherry by Act 26 of 1968, s. 3 and the Schedule. The Act has been rep. in Rajasthan by Raj. Act 39 of 1960. Part IX rep. in its application to Bellary District by Mysore Act 14 of 1955.
2. Subs. by the A. O. 1950 for sub-section (*2*).
3. Subs. by the Adaptation of Laws (No. 2) Order, 1956 for "Part B States".
4. The word "and" and sub-section (*3*)rep. by Act 10 of 1914, s. 3 and the Second Schedule.
5. Subs. by the Adaptation of Laws (No. 2) Order, 1956 for the former clause (*c*)which had been ins. by the A. O. 1950.

PART II

GENERAL

3. Officers in charge of prisons to detain persons duly committed to their custody.—The officer in charge of a prison shall 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 e course of law.

4. Officers in charge of prisons to return writs, etc., after execution or discharge.—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, 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

5. Warrants, etc., to be directed to Police officers.—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.

6. Power for State Governments to appoint Superintendents of Presidency prisons.—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".

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

8. Delivery of persons sentenced to transportation by High Court.—Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation [1]*** the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation [1]*** of such person shall be deemed to commence from such delivery.

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

10. Delivery of persons sentenced by Presidency Magistrates.—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 behavior, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

11. Delivery of persons committed for trial by High Court.—Every person committed by a Magistrate, [2][or Justice of the Peace] for trial by the high Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment,

1. The words "or penal servitude", omitted by Act 17 of1949. s. 4. 2. Subs.
by Act 4 of 1908, s. 13, for "Justice of the Peace, or Coroner".

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. Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.—The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure (14 of 1882),[1] of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of [3]section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered 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.

13. Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.—(*1*) Every person ar it, 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.

(*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. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.—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.

[2][**15. Power for officers in charge of prisons to give effect to sentences of certain Courts.—**(*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—

(*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 of 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 : or

[3]* * * * *

1. This reference should be constrained as applying to the Provincial Insolvency Act, 1920 (5 of 1920), see s. 83 (*2*) of that Act.
2. Subs. by the A.O. 1950, for section 15.
3. Clause (*c*) omitted The Adaptation of Laws (No. 2) Order, 1956.

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 or warrant issued 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.)

16. Warrant of officer of such Court to be sufficient authority.—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. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.—(*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.

(*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. Execution in the States of certain capital sentences not ordinarily executable there.—(*1*) Where a [1][Court established by the authority of the Central Government] exercising, in or with respect to territory beyond the limits of the States, jurisdiction which [2][the [3][Central Government]] has in such territory,—

(*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 humane 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 (5 of 1898).

(*2*) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid [4][shall in each State be such as the State Government] may, by general or special order, direct.

[5]* * * * *

PART V.— [*PERSONS UNDER SENTENCE OF PENAL SERVITUDE.*]*Omitted by the Criminal Law (Removal of Racial Discriminations) Act,* 1949 (17 *of* 1949). *s.* 4.

19. [*Persons under sentence of penal servitude how to be dealt with*.] *Omitted by s.* 4*,* ibid.

1. Subs. by the A.O.1948, for "British Court".
2. Subs. by the A.O.1937, for "the G. G. in C.".
3. Subs. by the A.O.1948, for "Crown".
4. Subs. by the A.O. 1937, for "shall be such as the G. G. in C. or a L. G. authorized by the G. G. in C. in this behalf".
5. Sub-section (*3*) and the proviso thereto omitted by the A.O. 1950.

20. [*Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude*.] *Omitted by s.* 4*,* ibid.

21. [*Power to grant license to person sentenced to penal servitude*.] *Omitted by s.* 4*,* ibid.

22. [*Licensee to be allowed to go at large*.] *Omitted by s.* 4ibid.

23. [*Apprehension of convict where license revoked*.] *Omitted by s.* 4ibid.

24. [*Execution of warrant.*]*Omitted by the Criminal Law (Removal of Racial Discriminations) Act, 1949* (*17 of 1949*). *s.* 4.

25. [*Licensee when arrested to be brought up for recommitment*]. *Omitted by s.* 4,ibid. **26. [***Recommitment*.] *Omitted by s.* 4,ibid.

27. [*Penalty for breach of condition of the license.*] *Omitted by s.* 4, ibid.

PART VI

REMOVAL OF PRISONERS

28. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.—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.

[1][**29. Removal of prisoners.—**(*1*) The [2][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 behavior, to any other prison in [3][the State [4]***].

(*2*) [5][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[6].]

30. Lunatic prisoners how to be dealt with.—(*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, remand 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[7]Lunatic Asylums Act, 1858 (36 of 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 he reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

1. Subs. by Act 1 of 1903, s. 3 and the second Schedule for section 29.

2. Subs. by the A.O. 1937, for "G. G. in C.".

3. Subs. by the A.O. 1937, for "British India or to any prison in Berar". The words "or to any prison in Berar" had been added by Act 17 of 1923. s. 2.

4. The words "or, with the consent of the State Government concerned, to any prison in any other State" omitted by Act 29 of 1950, s. 4.

5. Subs. by the A. O. 1937, for "The L. G., and (subject to its orders and under its control)".

6. The words "or, in the case of prisoner so confined in a prison in the C. P., for his removal to any other prison in the Province or to any prison in Berar", which had been added by Act 17 of 1923, s. 2 were omitted by the A. O. 1937. 7. See now the Indian Lunacy Act, 1912 (4 of 1912).

[1][(*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 [2][any part of India to which this Act does not extend] by agreement with the State Government of such other State [3]***; 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 the Amending Act,* 1903 (1 *of* 1903), *s.* 4 *and the Third Schedule.*

PART VII

PERSONS UNDER SENTENCE OF TRANSPORTATION

32. Appointment of places for confinement of persons under sentence of transportation and removal thereto.—[4][(*1*)] The [5][State Government] may appoint places within [6][the State] to which persons under sentence of transportation shall be sent; and the [6][State Government], or some officer duly authorised in this behalf by the [6][State Government], shall give orders for the removal of such persons 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.

[7][(*2*) In any case in which the State Government is competent under sub-section (*1*) to appoint places within the States 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 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

33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon.— [8][Any High Court] may, in any case in which it has recommended to [9][Government] the granting of a 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*] *Repealed by the Prisoners* (*Attendance in Courts*) *Act,* 1955 (32 *of* 1955), *s.* 10.

34. [*References in this part to prisons, etc., to be construed as referring also to Reformatory Schools*.] *Repealed by s.* 10*,* ibid.

35. [*Power of Civil Courts to require appearance of prisoner to give evidence.*] *Repealed by s.* 10*,* ibid.

1. Subs. by Act 38 of 1920, s. 2 and the First Schedule, for sub-section (*4*).

2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "any Part B State".

3. The words "or with such State or the Ruler thereof, as the case may be" omitted, *ibid.*

4. Section 32 was re-numbered as sub-section (*1*) of that section by Act 38 of 1920, *s.* 2 and the First Schedule. 5. Subs. by s. 2, and the First Schedule, Pt. I, *ibid*., for G.G. in C.

6. Subs. by s. 2 and the First Schedule, Pt. I, *ibid.,* for "British India".

7. Ins. by s. 2 and the First Schedule, *ibid*.

8. Subs. by the Adaptation of Laws (No. 2) Order, 1956 for "Any Court which is a High Court for a Part A State". 9. Subs. by the A.O.1950 for "Her Majesty".

36. [*District Judge in certain cases to countersign orders made under section 35.*] *Repealed by s.* 10*,* ibid.

37. [*Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge*.] *Repealed by s.* 10*,* ibid.

38. [*Order to be transmitted through Magistrate of the District or subdivision in which person is confined***.]** *Repealed by s.* 10*,* ibid.

39. [*Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.*] *Repealed by s.* 10*,* ibid.

40. [*Persons confined beyond limits of appellate jurisdiction of High Court.*] *Repealed by s.* 10*,* ibid.

41. [*Prisoner to be brought up*.] *Repealed by s. 10,* ibid.

42. [*Power to Government to exempt certain prisoners from operation of this Part*.] *Repealed by s.* 10*,* ibid.

43. [*Officer in charge of prison when to abstain from carrying out orders*.] *Repealed by s.* 10*,* ibid.

44. [*Commissions for examination of prisoners.*] *Repealed by s.* 10*,* ibid.

45. [*Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court*.] *Repealed by s.* 10*,* ibid.

46. [*Commission how to be directed*.] *Repealed by s.* 10, ibid.

47. [*Process how served on prisoners.*] *Repealed by s.* 10*,* ibid.

48. [*Process served to be transmitted at prisoner's request*.] *Repealed by s.* 10*,* ibid.

49. [*Application of Part in certain cases.***]** *Repealed by s.* 10*,* ibid.

50. [*Deposit of costs.*] *Repealed by s.* 10*,* ibid.

51. [*Power to make rules under this Part*.] *Repealed by the Prisoners (Attendance in Courts) Act,* 1955 (32 *of* 1955), *s.*10.

52. [*Power to declare who shall be deemed officer in charge of Prison.*] *Repealed by s.10,* ibid.

53. [*Repeals.*] *Repealed by the Repealing and Amending Act,* 1914 (10 *of* 1914), *s.* 3 *and the Second Schedule.*

[*THE FIRST SCHEDULE.*] *Repealed by the Prisoners (Attendance in Courts) Act,* 1955 (32 *of* 1955), *S.* 10.

[*THE THIRD SCHEDULE.*] *Repealed by the Repealing and Amending Act,* 1914 (10 *of* 1914), *s.* 3 *and the Second Schedule.*