THE KARNATAKA HABITUAL OFFENDERS ACT, 1961.

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STATEMENT OF OBJECTS AND REASONS

Act 24 of 1961.- The laws pertaining to the treatment and training of habitual offenders now in force in the different areas of the State are—

1. The Mysore Restriction of Habitual Offenders Act, 1952 (Mysore Act XXIII of 1952);

2. The Madras Restriction of Habitual Offenders Act, 1948 (Madras Act VI of 1948); 3. The Bombay Habitual Offenders Restriction Act, 1947 (Bombay Act LI of 1947); 4. The Hyderabad Habitual Offenders (Restriction and Settlement) Act, 1954 (Hyderabad Act XXII of 1954).

It is necessary to have a uniform law relating to habitual offenders applicable to the entire State. Hence this Act.

The main provisions of the Act relate to the registration of habitual offenders and restriction of their movements, establishment of corrective settlements and other ancillary matters.

(Obtained from file LAW 16 LGN 59.)

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[1][KARNATAKA ACT][1] No. 24 OF 1961

THE [1][KARNATAKA][1] HABITUAL OFFENDERS ACT, 1961

(*Received the assent of the President on the twenty-first day of November, 1961.*)

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

WHEREAS it is expedient to provide for the treatment and training of habitual offenders in the [1][State of Karnataka][1];

BE it enacted by the [1][Karnataka State][1] Legislature in the Twelfth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the [1][Karnataka][1] Habitual Offenders Act, 1961.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) It extends to the whole of the [1][State of Karnataka][1].

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

1. Act came into force on 17.7.1969 by notification. Text of the notification is at the end of the Act

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

(*a*) "Code" means the Code of Criminal Procedure, 1898;

(*b*) "corrective settlement" means any place established, approved or certified as a corrective settlement under section 13;

(*c*) "District" means the territorial division constituting a district for the purpose of the Code and includes the City of Bangalore;

(*d*) "District Magistrate" means the Deputy Commissioner of the District;

(*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, 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 part 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 sentence of imprisonment or under detention shall not be taken into account;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "registered offender" means a habitual offender whose name and other particulars are entered in a Register made under a direction issued under section 3 or who is re-registered under section 9;

(*i*) "scheduled offence" means an offence specified in Schedule A or an offence analogous thereto;

(*j*) "Superintendent of Police" means the Superintendent of Police having jurisdiction over the area.

CHAPTER II

REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTIONS ON THEIR MOVEMENTS.

3. Power of State Government to direct registration of habitual offenders.—The State Government may, by notification, direct the District Magistrate, to make or cause to be made, a Register of habitual offenders within the district, by entering therein, names, previous convictions and other prescribed particulars of such offenders.

4. Issue of notice to habitual offenders and enquiry regarding entries to be made in the Register.—After the publication of a notification under section 3, the District Magistrate 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;

(*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;

(*c*) to allow his finger and palm impressions, foot-prints and photographs to be taken:

Provided that the name, previous convictions and other prescribed particulars of a habitual offender shall not be entered in the Register unless after affording him a reasonable opportunity of showing cause why such entry should not be made:

Provided further, that no entry relating to previous conviction of a habitual offender shall be made, unless the District Magistrate or the officer appointed by him in this behalf, has satisfied himself about the truth or otherwise of such previous conviction in the manner provided by section 511 of the Code.

5. Charge of register and alterations therein.—(1) After the names, previous convictions and other prescribed particulars of habitual offenders in the district are entered in the Register, such Register shall be kept in the custody of the Superintendent of Police who shall, from time to time, report to the District Magistrate any alterations which ought, in his opinion, to be made therein.

(2) When the Register is in the custody of the Superintendent of Police, no fresh entries shall be made in the Register, nor shall any entry be cancelled, except by or under an order in writing of the District Magistrate.

6. Power to take finger impressions, etc., at any time.—The District Magistrate 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.

7. Registered offenders to notify every 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 [1][State of Karnataka][1] or outside, he shall notify the change or intended change to the District Magistrate of the district in which he is registered.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) The District Magistrate may, by order in writing, direct that any registered offender shall,-

(*a*) report himself once in each month or where the District Magistrate 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 Magistrate may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period and on such conditions as may appear reasonable to him.

8. Action to be taken when a registered offender changes his ordinary residence.—(1) Where any registered offender changes his ordinary residence to another district within the [1][State of Karnataka][1], the District Magistrate of the District in which the offender is registered, shall inform the District Magistrate of the other district about such change, and at the same time, furnish him with the name and other particulars of the registered offender.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) On the receipt of such information, the District Magistrate of the other district, shall enter in his register the name and other particulars of the registered offender and inform the District Magistrate of the first district about such registration and thereupon such District Magistrate 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 [1][State of Karnataka][1], the District Magistrate of the first district shall, while furnishing the District Magistrate of the other district, with the name and the 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 receipt of such information, the District Magistrate of the first district shall cancel from his Register the entry relating to that offender.

(4) Upon the entry of the name and other particulars of the 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.

9. Duration of registration, cancellation thereof and re-registration of habitual offenders.—(1) The Registration of a habitual offender under this Act shall cease to be

in force on the expiry of five years from the date of such registration, unless earlier cancelled by the District Magistrate for reasons to be recorded in writing. On such expiry or cancellation, the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation or the 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 by the District Magistrate for reasons to be recorded in writing, 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 or 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 and re-registration, etc.—(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 in the prescribed manner, if necessary 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 movement of a registered offender.—(1) If, in the opinion of the State Government, it is necessary or expedient in the interests of the general public so to do, the State Government may, by order, direct that any registered offender shall be restricted in his movement to such area (hereinafter called the "restriction 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 are 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 restrictions on movement.—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.

CHAPTER III

CORRECTIVE TRAINING OF HABITUAL OFFENDERS

13. Establishment of corrective settlements.—(1) The State Government may, by notification, 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 receive corrective training under this Act.

(2) The State Government may also, subject to the conditions prescribed, approve or certify any institution (whether known as a settlement or otherwise) established or maintained by persons other than the State Government as corrective settlement for the purpose of this Act.

14. Power to direct habitual offender to receive corrective training.—(1) Where the State Government is satisfied from a report of the District Magistrate or otherwise, that it is expedient for 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 an order in writing, direct that the registered offender stall 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) When 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 section 110 of the Code to execute a bond for his good behaviour, and

-the Court or the District Magistrate is satisfied from the evidence in the case and other matters on record that it is expedient for his reformation and prevention of crime that he should receive training of a corrective character for a substantial time, the Court or the District 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 of not less than two nor more than five years, as the Court or 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 as to why such directions 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.

15. Power to transfer from corrective settlement.—The State Government or any other officer authorised 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

16. 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 truth 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, footprints and photographs to be taken by any person acting under an order passed under section 4 or section 6; or

(*d*) fails to comply with the provisions of sub-section (1) of section 7 or with an order of the District Magistrate 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 a second or subsequent conviction, with imprisonment for a term which may extend to one year or with a 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 as to the suitability for receiving training of a corrective character in a corrective settlement, is satisfied that it is expedient for his reformation and the prevention of crime, that he should receive training of a corrective character for a substantial time, 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 being less than two years nor more than three years, as it may determine.

17. Arrest of persons found outside 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, police patel, or a member of the village police and taken before a magistrate who, on proof of 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

18. Bar of jurisdiction.—No Court shall question the validity of any direction or order issued under this Act.

19. Bar of legal proceedings.—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.

20. Power to delegate.—The State Government may, by notification in the 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 conditions and restrictions as may be specified in the notification, by such Officer not below the rank of a Deputy Commissioner as may be specified therein.

21. Power to make rules.—(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 pl

(*i*) the conditions for, and the manner of, approving or certifying institutions established or maintained by persons other than the State Government as corrective settlements;

(*j*) the appointment of non-official visitors for corrective settlements;

(*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 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 State Government may provide that contravention of any of the rules shall be punishable with imprisonment which may extend to six months or with fine which may extend to one hundred rupees or with both.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses 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.

22. Repeal and savings.—The enactments mentioned in Schedule B are hereby repealed:

Provided that section 6 of the [1][Karnataka][1] General Clauses Act, 1899 ([1][Karnataka][1] Act III of 1899), shall be applicable in respect of such repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act:

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

Provided further that if immediately before the commencement of this Act,-

(i) any person is a notified offender,

or

(ii) an order of restriction or an order of settlement has been made against any person,

-under any of the repealed enactments and such person is a habitual offender within the meaning of clause (*e*) of section 2 of this Act, such person shall continue to be subject to the provisions of the relevant repealed enactment, as if such enactment had not been repealed for a period of four months from the date of commencement of this Act or until his name and other particulars are entered in the Register made under any direction issued under section 3 of this Act whichever is earlier.

SCHEDULE A

[See section 2 (i)].

I

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232 Counterfeiting Indian Coin.

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234 Making or selling instrument for counterfeiting Indian coin.

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326 Voluntarily causing grievous hurt by dangerous weapons or means.

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329 Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

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333 Voluntarily causing grievous hurt to deter public servant from his duty.

347 Wrongful confinement to extort property, or constrain to illegal act.

365 Kidnapping or abducting with intent secretly and wrongfully to confine person. 366A Procuration of minor girl.

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411 Dishonestly receiving stolen property.

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451 House-trespass in order to commit offence punishable with imprisonment. 452 House-trespass after preparation for hurt, assault or wrongful restraint.

453 Lurking house trespass or house-breaking.

454 Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

455 Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.

456 Lurking house-trespass or house-breaking by night.

457 Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

458 Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

459 Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460 All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

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4 (1) (*f*) or (*g*) of the Mysore Prohibition Act, 1948 (Mysore Act XXXVII of 1948) as in force in the Mysore and [1][Gulburga Areas.][1]

12 (*c*) and 13 (*c*) of the Bombay Prohibition Act, 1949 (Bombay Act XXV of 1949) as in force in the [1][Belgaum Area.][1]

4 (1) (*f*) or (*g*) of the Coorg Prohibition Act, 1956 (Coorg Act 1 of 1956) as in force in the Coorg District.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

SCHEDULE B.

(See section 22).

Enactments repealed.

1. The Mysore Restriction of Habitual Offenders Act, 1952 (Mysore Act XXIII of 1952).

2. The Madras Restriction of Habitual Offenders Act, 1948 (Madras Act VI of 1948.) 3. The Bombay Habitual Offenders Restriction Act, 1947 (Bombay Act LI of 1947).

4. The Hyderabad Habitual Offenders (Restriction and Settlement) Act, 1954 (Hyderabad Act XXII of 1954).

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NOTIFICATION

Bangalore, dated 30th June, 1969 [No. HD 5 PRH 62]

S.O. 1404.- In exercise of the powers conferred under sub-secton (3) of section (i) of the Mysore Habitual Offenders Act, 1961 (Mysore Act No. 24 of 1961), the Government of Mysore hereby appoints 17th day of July, 1969 as the date on which the said Act shall come into force.

By Order and in the name of the
Governor of Karnataka,

(N.K. SRINIVASA MURTHY)
Under Secretary to Government,
Home Department.