

# **The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988**

HARYANA

India

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### **Act 28 of 1988**

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The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988(Haryana Act No. 28 of 1988)Last Updated 21st January, 2020Received the assent of the Governor of Haryana on the 8th September, 1988 and was published in the Haryana Gazette, (Extra), Legislative Supplement, Part I, dated September 13, 1988/Bhadra 22, 1910.An Act to provide for the temporary release of prisoners for good conduct on certain conditions.Be it enacted by the Legislature of the State of Haryana in the Thirty-ninth Year of the Republic of India as follows :-

### **1. Short title, extent and commencement.**

(1)This Act may be called the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.(2)It extends to the whole of the State of Haryana.(3)It shall come into force on such date as the State Government may, by notification, in the Official Gazette, appoint in this behalf.

### **2. Definitions.**

- In this Act, unless the context otherwise, requires -(a)"District Magistrate" means the District Magistrate of the district within whose jurisdiction the prisoner after his temporary release under this Act, is likely to reside during the period of his release;(aa)[ "hardcore prisoner" means a person, who - [Inserted by Act No. 20 of 2012, dated 1.10.2012.](i)has been convicted of dacoity, robbery, kidnapping for ransom, murder with rape, serial killing, contract killing, murder or attempt to murder for ransom or extortion, causing grievous hurt, death or waging or attempting to wage war against Government of India, buying or selling minor for purposes of prostitution or rape with a woman below sixteen years of age or such other offence as the State Government may, by notification, specify; or(ii)during any continuous period of five years has been convicted and sentenced to imprisonment twice or more for commission of one or more of offences mentioned in

chapter XII or XVII of the Indian Penal Code, except the offences covered under clause (i) above, committed on different occasions not constituting part of same transaction and as a result of such convictions has undergone imprisonment atleast for a period of twelve months: Provided that the period of five years shall be counted backwards from the date of second conviction and while counting the period of five years, the period of actual imprisonment or detention shall be excluded. Explanation. - A conviction which has been set-aside in appeal or revision and any imprisonment undergone in connection therewith shall not be taken into account for the above purpose; or (iii) has been sentenced to death penalty; or (iv) has been detected of using cell phone or in possession of cell phone/SIM card inside the jail premises; or (v) failed to surrender himself within a period of ten days from the date on which he should have so surrendered on the expiry of the period for which he was released earlier under this Act; ](b) "member of prisoner's family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoners; (c) "prescribed" means prescribed by the rules made under this Act; (d) "prisoner" means a person confined in prison or jail or other institution of like nature under a sentence of imprisonment for life or imprisonment by any court in India or the Court martial or any other authority exercising the powers of a Criminal Court; (e) "Superintendent of Jail" means the officer incharge of the prison or jail or other institution of like nature in which the prisoner is undergoing his sentence of imprisonment for life or imprisonment.

### **3. Temporary release of prisoners on certain grounds.**

(1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the Official Gazette and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2), any prisoner, if the State Government is satisfied that - (a) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or (b) the marriage of prisoner himself, his son, daughter, grandson, grand-daughter, brother, sister, sister's son or daughter is to be celebrated; or (c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or (d) it is desirable to do so for any other sufficient cause. (2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed - (a) where the prisoner is to be released on the grounds specified in clause (a) of sub-section (1), three weeks; (b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and (c) where the prisoner is to be released on the grounds specified in clause (c) of sub-section (1), six weeks : Provided that the temporary release under clause (c) can be availed more than once during the year, which shall not, however, cumulatively exceed six weeks. (3) The period of release under this section shall not count towards the total period of sentence of a prisoner. (4) The State Government may, by notification, authorise any officer to exercise its powers under this section in respect of all or any other ground specified thereunder.

### **4. Temporary release of prisoners on furlough.**

(1) The State Government or any other officer authorised by it in this behalf may, in consultation with such other officer as may be appointed by the State Government, by notification, and subject to

such conditions and in such manner as may be prescribed, release temporarily, on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than four years and who - (a) has, immediately before the date of his temporary release, undergone continuous imprisonment for a period of three years, inclusive of the pre-sentence detention, if any; (b) has not during such period committed any jail offence (except an offence punished by a warning) and has earned at least three annual good conduct remissions : [\*\*\*] [[Omitted 'Provided that nothing herein shall apply to a prisoner who - (i) is a habitual offender as defined in sub-section (3) of section 2 of Punjab Habitual Offenders (Control and Reform) Act, 1952; or (ii) has been convicted of dacoity or such other offence as the State Government may, by notification, specify.' by Haryana Act No. 20 of 2012, dated 1.10.2012.]] (2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter. (3) Subject to the provisions of clause (d) of sub-section (3) of section 8 the period of release referred to in sub-section (1) shall count towards the total period of the sentence undergone by a prisoner.

## **5. Exclusion of certain days in computing period under sections 3 and 4.**

- For the purpose of calculating the period of temporary release of a prisoner under sections 3 and 4, the dates of departure from and arrival at the prison shall be excluded.

### **5A. [ Special provisions for temporary release of hardcore prisoners.**

**[Substituted by Haryana Act No. 8 of 2014, dated 31.3.2014.]**

(1) Notwithstanding anything contained in sections 3 and 4, no hardcore prisoner shall be entitled to temporary release or furlough : Provided that a hardcore prisoners may be released on temporary basis to attend the marriage of his grand child or sibling, or death of his grand parent, parent, grand parent-in-laws, parent-in-laws, sibling, spouse, child or grand child under an armed police escort, for a period of forty-eight hours, to be decided by the concerned Superintendent of Jail : Provided further that a hardcore prisoner may be released on temporary basis to attend the marriage of his daughter for ninety-six hours and for the marriage of his son for seventy-two hours under an armed police escort, to be decided by the concerned Superintendent of Jail. He shall intimate within twenty-four hours, the concerned District Magistrate and Superintendent of Police in this regard with full particulars of the hardcore prisoner being so released.]

## **6. [ [Substituted by Haryana Act No. 20 of 2012, dated 1.10.2012.]**

(1) Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace. (2) The District Magistrate, the State Government or the officer authorized to release the prisoner as provided in sections 3 and 4 of the Act shall take report from the Police within a specified time frame. (3) In case of non-recommendation for release by the Police, the release

granting authority shall pass a speaking order, if he disagrees with the report submitted to him.]

## **7. Journey expenses of poor prisoners to be borne by State Government.**

- If on the report of the District Magistrate, the State Government is satisfied that prisoner's family cannot bear the expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the State Government to such extent and in such manner as may be prescribed.

## **8. Liability of prisoner to surrender on expiry of release period and consequences of overstaying.**

(1) On the expiry of the period for which a prisoner is released under this Act, he shall surrender himself to the Superintendent of the Jail from which he was released. (2) If a prisoner does not surrender himself as required by sub-section (1) within a period of ten days from the date on which he should have so surrendered, he may be arrested by any Police Officer or Prison Officer without a warrant and shall be delivered over to the officer in charge of the prison from which he was released to undergo the unexpired portion of his sentence. (3) If a prisoner surrenders himself to the Superintendent of the Jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the Superintendent of the Jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the Superintendent of the Jail, namely : - (a) a maximum cut of five days remission for each day of overstay; (b) stoppage of canteen concession for a maximum period of one month; (c) withholding concession of either interviews or letters or both for a maximum period of three months; (d) the period of temporary release on furlough of the prisoner under section 4 shall not be counted towards his sentence; (e) warning; (f) reduction from higher to a lower case or grade.

## **9. Penalty for failure to surrender.**

(1) Any prisoner who is liable to be arrested under sub-section (2) of section 8, shall be punishable with imprisonment of either description which may extend to [three years but shall not be less than two years] [Substituted 'three years and with fine' by Haryana Act No. 20 of 2012, dated 1.10.2012.]. (2) An offence punishable under sub-section (1) shall be deemed to be cognizable and non-bailable. Explanation. - The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

## **10. Power to make rules.**

(1) The State Government may, by notification, 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 - (a) the execution by the prisoner (including his sureties) of bond for his good behaviour

during the release period and for his surrender on the expiry of such period;(b)the amount for which and the form and manner in which such bonds shall be furnished;(c)the forfeiture of the amount of bonds in case of breach of any of its terms;(d)the conditions on which and the manner in which prisoners may be released temporarily under this Act;(e)the manner in which the District Magistrate or any other officer may be consulted in the matter of temporary release of a prisoner;(f)the extent to which and the manner in which journey expenses of poor prisoner shall be borne by the State Government;(g)any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

## **11. Repeal and savings.**

- The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (Punjab Act No. 11 of 1962), in its application to the State of Haryana, is hereby repealed :Provided that such repeal shall not affect, -(a)the previous operation of the Act so repealed or anything duly done or suffered thereunder; or(b)any right, privilege, obligation or liability acquired or incurred under the Act so repealed; or(c)any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or(d)any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid :and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :Provided further that anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.