

Himachal Pradesh Armed Bands (Arrest and Detention) Act, 1969

HIMACHAL PRADESH

India

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Act 1 of 1971

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Himachal Pradesh Armed Bands (Arrest and Detention) Act, 1969(Act No. 1 of 1971)Last Updated 7th March, 2020For Statement of Objects and Reasons, see R. H. P. Extra., dated the 31st May, 1969, p.385 . For its Authoritative Hindi Text see R. H. P. Extra., 22-11-86, p. 2049.(Received the assent of the President of India, on the 15th January, 1971, and was published in R.H.P. Extra., dated the 24th February, 1971, at p.161-164).An Act to provide for the arrest and punishment of members of armed bands.Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Himachal Pradesh Armed Bands (Arrest and Detention) Act, 1969.(2)It extends to the whole of Himachal Pradesh.(3)It shall come into force in such areas and on such [date] [The Act came into force in the whole of Himachal Pradesh w.e.f. 1-7-1972-vide Not. No. 1-11/68-Home, dated the 8th June, 1972 published in R. H. P. Extra., dated 12-6-1972, P.543.] or dates as the State Government may, by notification, direct in this behalf.

2. Definitions.

(1)In this Act, unless there is anything repugnant in the subject or context,-(a)"Arms" has the meaning given to it in the Arms Act, 1959 (54 of 1959), and includes any weapon or thing capable of being used as weapon, which if used for offence, is likely to cause grievous hurt or death, but does not include licensed arm or arms for which no licence under the provisions of the said Act or the rules made thereunder, is required;(b)"Armed Band" means any assembly or group of five or more persons, all or any of whom carry or carries arms:Provided that no public servant, who carries any arms in pursuance of his duties as such public servant, shall be treated as member of an armed

band;(c)"The Code" means the Code of Criminal Procedure, 1898 (5 of 1898);(d)"Detention camp" means any camp established by or under the authority of State Government for the detention of persons contravening any of the provisions of this Act;(e)"Grievous hurt" has the meaning given to it in section 320 of the Indian Penal Code, 1860 (45 of 1860);(f)"Public servant" has the meaning given to it in section 21 of the Indian Penal Code, 1860 (45 of 1860);(g)"State Government" means the Government of Himachal Pradesh.(2)Words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Code.

3. Power to arrest members of armed bands.

(1)Any Magistrate and any Police Officer not below the rank of Station House Officer may arrest without warrant any member of an armed band, and if resistance is offered to the arrest, may fire upon or otherwise use force even to the causing of death, in order to effect such arrest.(2)The procedure laid down in sections 41 to 53 of the Code shall be as far as may be, applicable to arrests effected under sub-section (1).

4. Procedure after arrest.

(1)The Officer effecting the arrest shall, with all convenient speed, take or send the arrested person to the officer-in-charge of the nearest detention camp.(2)The officer-in-charge of a detention camp may pending trial keep the arrested person in detention for a period not exceeding one month.

5. Power to establish Detention Camps.

(1)The State Government, and with the authority of the State Government, the District Magistrate within the area under his jurisdiction may establish detention camps.(2)The State Government may, by general or special order, prescribe the organisation of such camps and determine the conditions as to maintenance, discipline and the punishment of offences and breaches of discipline which shall be applicable to persons kept in custody in such camps.

6. Offences and penalties.

(1)Whoever is a member of an armed band shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to three years or with fine or with both.(2)Whoever, being a member of an armed band, resists his arrest by or under the orders of a duly authorised officer shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to seven years or with fine or with both.

7. Procedure.

- Notwithstanding anything to the contrary contained in the Code, any magistrate trying an offence under this Act may, if he thinks fit, try any such offence summarily according to the procedure

prescribed in Chapter XXII of the Code.

8. Offence under the Act to be non-bailable.

- Notwithstanding anything contained in the Code, any offence punishable under this Act, shall be non-bailable.

9. Special provision regarding bail.

- Notwithstanding anything contained in the Code, no person accused of an offence made punishable by this Act shall, if in custody, be released on bail or on bond unless, -(a) the prosecution has been given an opportunity to oppose the application for such release, and (b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

10. Jurisdiction barred.

- No prosecution, suit or other legal proceedings, shall be instituted, except with the previous sanction of State Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred under sections 3 and 4 of this Act, or under any order made under sub-section (2) of section 5.

11. Operation of other penal laws not barred.

- Nothing contained in this Act, shall be deemed to prevent any person from being prosecuted under any other law for any act which constitute an offence punishable under this Act: Provided that no person shall be prosecuted and punished for the same offence more than once.

12. Repeal and savings.

- East Punjab Armed Bands (Arrest and Detention) Act, 1947 (11 of 1947) is hereby repealed: Provided that anything done or any action taken (including any order made, notification or direction issued, detention camp established or proceedings commenced or continued) under any of the provisions of the said Act shall be deemed to have been done or taken under the corresponding provision of this Act.