

# Punjab Habitual Offenders (Control and Reform) Act, 1952

PUNJAB

India

## Punjab Habitual Offenders (Control and Reform) Act, 1952

### Act 12 of 1952

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Punjab Habitual Offenders (Control and Reform) Act, 1952 Punjab Act No. 12 of 1952 Statment of Object and Reasons. - According to Section 2 of Criminal Tribes Laws (Repeal) Act, 1952, passed by the Parliament the Criminal Tribes Act, 1924 (IV of 1924) and every other law corresponding thereto in force in any State or part thereof shall stand repealed on the 31st day of August, 1952. In the interest of law and order it is expedient that the said Act should be replaced by suitable legislations for the adequate surveillance and control of all habitual offenders without any distinction based on caste, creed or birth. It is with this view that the Bill has been prepared for the registration of habitual offenders in the State of Punjab and for imposing restrictions on them. Published vide Punjab Government Gazettee (Extraordinary), 19th July 1952, Page 646. Received the assent of the Governor of Punjab on the 16th of August, 1952, and was first published in the Punjab Government Gazette (Extra-ordinary) of 19th August, 1952 An Act to provide for registration of habitual offenders in the State of Punjab and for imposing certain restrictions on them. Whereas it is expedient to make provision for the registration of habitual offenders and for imposing certain restrictions on them; it is hereby enacted as follows :-

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

(1) This Act may be called the Punjab Habitual Offenders (Control and Reform) Act, 1952. (2) It shall extend to whole of the State of Punjab. (3) It shall come into force on the 31st day of August, 1952.

### 2. Definitions.

-(1) "Code" means the Code of Criminal Procedure (Act V of 1898). (2) "Government" means the Government of Punjab. (3) [Substituted by the Punjab. Habitual Offenders (Control and Reform) (Amendment) Act, 1953, Section 4.] "Habitual Offender" means a person -(a) who, during any continuous period of five years, whether before or after the commencement of this Act, has been

convicted and sentenced to imprisonment more than twice on account of any one or more of the offences mentioned in the Schedule to this Act committed on different occasions and not constituting parts of the same transaction; and (b) who has, as a result of such convictions suffered imprisonments at least for a total period of twelve months. Explanation. - (1) A conviction which has been set aside in appeal or revision and any imprisonment suffered in connection therewith shall not be taken into account for the above purpose. Explanation. - (2) In computing the period of five years, and periods spent in jail either under a sentence of imprisonment or under detention shall not be taken into account. (4) "Registered person" means a person registered under this Act, as a habitual offender. (5) "Prescribed" means prescribed by rules made under this Act. (6) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

### **3. Registration of habitual offenders.**

- The Government may direct the District Magistrate to make or cause to be made a register of habitual offenders within his district.

### **4. Restrictions on registration.**

- No person shall be registered under this Act, if more than six months have elapsed since the expiration of the sentence of imprisonment relating to his last conviction.

### **5. [Substituted vide Punjab Act 30 of 1953] Procedure in making register. - Upon receiving a direction under Section 3, the District Magistrate shall -**

(a) publish a notice in the prescribed manner calling upon habitual offender - (i) to appear at a time and place specified therein before the person appointed by him in this behalf, (ii) to give to that person such information as may be necessary to enable him to complete the register, and cause a register of habitual offenders to be prepared: Provided that before entering the name of any person in such register the District Magistrate or [an Executive Magistrate] [Substituted for the words 'a Magistrate' by Punjab Act 25 of 1964.] not below the rank of second class appointed by him in this behalf shall give him a reasonable opportunity to show-cause why such entry should not be made.

### **6. [Change of register.] [Substituted by the Punjab Habitual Offenders (Control and Reform) (Amendment) Act, 1953, Section 4.]**

- The register when made, shall be placed in the keeping of the Superintendent of Police of the district, who may from time to time report to the District Magistrate such alterations as ought in his opinion to be made therein by way of addition or erasure.

### **7. Alteration in register.**

(1) After the register has been placed in the keeping of the Superintendent of Police, [and subject to the provisions of Section 8] [Inserted after the word 'Police' by Section 5(i) of Punjab Act 30 of

1953.] no person's name shall be added to the register, and no registration shall be cancelled except by, or under in writing of, the District Magistrate.[ - ] [Words 'or of the Government' omitted by ibid, and comma after the word 'Magistrate' converted into a 'full stop.']. (2) Before the name of any person is added to the register under this section, the [District] [Inserted by Section 5(ii) (a) ibid.] Magistrate shall give notice in the prescribed manner to the person concerned -(a) to appear before him or any authority appointed by him in this behalf at a time and place therein specified; (b) to give to him or such authority such information as may be necessary to enable the entry to be made; [ - ] [The word 'and' at the end of clause (b) and the whole of clause (c) omitted by Section 5 (ii) and (c) ibid.](c) [ - ] [Substituted for the words 'a Second Class Magistrate' by Punjab. Act 25 of 1964.] Provided that before adding the name of any person to such register, the District Magistrate or a person not below the rank of an Executive Magistrate of the second class appointed by him in his behalf shall give him a reasonable opportunity to show cause why such addition should not be made.

## **8. Complaints of entry in register.**

- Any person aggrieved by an entry made, or proposed to be made, in such register either when the register, is first made or subsequently, may represent to the Commissioner of the Division against such entry, who shall retain such person's name on the register or enter it therein or erase it therefrom, as he may think fit: Provided the Government shall be competent, either on its own motion or on an application made in this behalf by the aggrieved person to confirm, alter or rescind any order passed by the Commissioner.

## **9. Power to take finger impressions, photograph and foot-prints at any time.**

- The District Magistrate or any officer appointed by him in this behalf may at any time order the finger impressions [photographs and footprints] [Inserted after the word 'impressions', by Punjab Act, 30 of 1953, Section 6.] of any registered person to be taken.

## **10. Registered persons to report themselves or notify their place of residence.**

(1) The District Magistrate may in respect of any registered person give either one or both of the following directions, namely, that every such person shall in the prescribed manner -(a) report himself at fixed intervals, and (b) notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence: Provided that no such order shall be for a term exceeding three years; nor shall it be made unless the necessity for making it has been established to the satisfaction of the District Magistrate, after an inquiry held by such authority and in such manner as may be prescribed. (2) Where a registered person in respect of whom the District Magistrate has issued a direction under sub-section (1) changes his place of residence to a district other than that in which he has been registered the provisions of this Act shall apply to him as if he had been registered in that district in pursuance of a direction made under Section 3. (3) Where any such registered person changes his place of residence to a district other than that in

which he has been registered, the relevant entry in the register shall be transferred to the Superintendent of Police of that district.

## **11. Power to restrict movement of, or settle registered persons.**

(1) If the Government considers that it is expedient that any registered person should be - (a) restricted to any specified area, or (b) settled in any place [of residence] [Inserted by Punjab Habitual Offenders Control and Reform (Amendment) Act 1953, .S. 7(i)(a).], the Government may by notification in the official Gazette, declare that such [person] [Substituted for the word 'persons' by Section 7(i)(b), *ibid*] shall be restricted to the area specified in the notification or shall be settled in the place of [of residence] [Inserted by Punjab Habitual Offenders (Control and Reform) (Amendment) Act 1953, Section 7(i)(a)] so specified, as the case may be: [Provided that no such declaration shall have effect for a period in excess of three years] [Proviso to sub-section (1) added by Section 7(ii) *ibid*.] (2) Before making any such declaration, the Government shall consider the following matters in an inquiry held by such authority and in such manner as may be prescribed - (i) the nature and the circumstances of the offences in which the registered person is believed to have been concerned; (ii) whether the registered person follows any lawful occupation, and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating the commission of crimes; (iii) the suitability of the restriction-area, or of the place of [residence] [Substituted for the word 'Settlement', by the Punjab Habitual Offenders (Control and Reform) (Amendment) Act, 1963, Section 8, (Punjab Act 20 of 1963).] as the case may be, which it is proposed to specify in the notification; (iv) the manner in which it is proposed that the person to be restricted or settled shall earn his livelihood within the restriction area or in the place of [residence] [Substituted for the word 'Settlement' by the Punjab Habitual Offenders (Control and Reform) (Amendment) Act, 1963, Section 8, (Punjab Act 20 of 1963).] and the adequacy, of the arrangements which are proposed therefor.

## **12. Power to vary specified area or place of settlement.**

- The Government may by a like notification vary the terms of notification issued by it under Section 11 for the purposes of specifying another restriction area or another place of [residence] [Substituted for the word 'Settlement' by the Punjab Habitual Offenders (Control and Reform) (Amendment) Act, 1963, Section 8 (Punjab Act 20 of 1963).], as the case may be, any officer empowered in this behalf by Government, may, by order in writing, vary any notification made under Section 11 or under this section for the purposes of specifying another restriction area, or, as the case may be, another place of [residence] [Substituted for the word 'Settlement', by the Punjab Habitual Offenders (Control and Reform) (Amendment) Act, 1963, Section 8, (Punjab Act 20 of 1963).] in the same district.

## **13. Verification of presence of registered persons within prescribed area or place of settlement.**

- Every registered person whose movements have been restricted or who has been settled in a place [of residence] [Inserted by Section 9, *ibid*.] under the provision of this Act shall attend at such place

and at such time and before such person as may be directed in this behalf. Settlements and Schools

#### **14. Power to place registered persons in settlements.**

(1) The Government may establish industrial, agricultural, or reformatory settlements and schools and may order to be placed in such settlement or school any registered person: Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the Government after an inquiry held by such authority and in such manner as may be prescribed. (2) No order under sub-section (1) shall be for a term exceeding five years.

#### **15. Power to discharge or transfer person from settlements or schools.**

- The Government or any officer authorised by it in this behalf may, at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the State - (a) to be discharged; or (b) to be transferred to some other settlement or school in the State.

#### **16. Power to make rules.**

(1) The Government may make rules to carry out the purposes and objects of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate :- (a) the form and contents of the register referred to in Section 3; (b) the manner in which the notice referred to in Section 5 shall be published and the means by which the persons whom it concerns, and the village headman, village watchman and landowners and occupiers of the village in which such persons reside, and the agents of such landowners or occupiers, shall be informed of its publication; (c) the addition of names to the register and the erasure of names therein and the mode in which the notice referred to in sub-section (2) of Section 7 shall be given; (d) the manner in which persons mentioned in Section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence; (e) the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under Section 11 or Section 12; (f) the circumstances in which registered persons shall be required to possess and produce for inspection, certificates of identity and the manner in which such certificates shall be granted; (g) the conditions as to passes under which persons may be permitted to leave the place in which they are settled or restricted; (h) the conditions to be inserted in any such pass in regard to :- (i) the places where the holder of the pass may go or reside; (ii) the persons before whom, from time to time, he shall be bound to report himself; and (iii) the time during which he may absent himself; (i) the place and time at which, and the persons before whom, registered persons shall report in accordance with the provisions of Section 13; (j) the authority by whom and the manner in which the inquiry referred to in Section 14 shall be held; (k) the inspection of the residences and villages of any registered persons; (l) the terms upon which registered persons may be discharged from the operation of this Act; (m) the management, control and supervision of industrial, agricultural or reformatory settlements and schools; (n) the works, on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their

labour; and (o) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the time being in force shall be subject, the periodical visiting of such settlement or school and the removal from it of such persons as are considered expedient to be removed. Penalties and Procedure

## **17. Penalties for failure to comply with terms of notice under Section 5 or Section 7.**

- Whoever, without lawful excuse, the burden of proving which shall lie upon him - (a) fails to appear in compliance with a notice issued under Section 5, Section 7, or (b) intentionally omits to furnish any information required under either of those sections, or (c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or (d) refuses to allow his finger-impressions, photographs and footprints to be taken by any person acting under an order passed under Section 9; may be arrested without warrant, and shall on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees or with both.

## **18. Penalties for breach of rules.**

(1) Any registered person who contravenes any rule, [notice, direction or order] [Inserted by Punjab. Habitual Offenders (Control and Reforms) (Amendment) Act, 1953, Section 10.] made under this Act [the breach of which is not otherwise provided for] [Inserted by *ibid.*] shall be punishable with imprisonment for a term which may extend - (a) on a 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 (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both. (2) any person who commits an offence made punishable by this section which is not a cognizable offence as defined in the Code may be arrested without a warrant by any officer in charge of a police station or by any police officer not below the rank of a sub-inspector.

## **19. Arrest of registered person beyond prescribed limits.**

(1) If a registered person is found outside the area or place of [residence] [Substituted for the word 'settlement', by Punjab Habitual Offenders (Control & Reform) (Amendment) Act, 1953, Punjab Act 30 of 1953), Section 11.] to which his movements have been restricted or in which he has been settled, in contravention of the conditions, under which he is permitted to leave such area, or who [escapes] [Substituted for the word 'escape' by *ibid.*] from an industrial, agricultural or reformatory settlement or school in which he has been placed may be arrested without warrant by any police officer, village headman or village watchman, and shall be taken before Executive Magistrate, within 24 hours of such arrest, and the Executive Magistrate, on proof of the facts, shall order him to be removed to such area or place or to such settlement or school, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder. (2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any

other provision of this Act: Provided that an order from the Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

## **20. Duties to report arrival and departure.**

- Any person, authorised or appointed in this behalf, shall forthwith report to the officer in charge of the nearest police station the arrival or departure of - (a) a person who has failed to give information in answer to a notice under Section 5 of the Act; (b) a registered person under the Act.

## **21. Penalty for breach of such duties.**

- [Any person who fails to comply with the requirements of Section 20 shall be deemed to have committed an offence punishable under the first part of Section 176 of the Indian Penal Code.] [Act XLV of 1860.]

## **22. Saving from effect of repeal of the Criminal Tribes Act, 1924.**

(1) Notwithstanding the repeal of the Criminal Tribes Act, 1924 (Act VI of 1924), every person who stood registered under that Act at the commencement of this Act and who is a habitual offender, as defined in sub-section (3) of Section 2 of this Act shall be deemed to be a registered person under this Act, provided that more than six months have not elapsed since the expiration of the sentence of imprisonment relating to his last conviction at the time of the commencement of this Act. (2) With respect to such persons as are referred to in the next preceding sub-section, all orders passed under Sections 10, 11 and 16 of the Criminal Tribes Act (VI of 1924) shall be deemed to have been passed under Sections 10, 11 and 14 of this Act, respectively. (3) All settlements established under the Criminal Tribes Act (VI of 1924) and existing at the commencement of this Act shall be deemed to have been established under this Act.

## **23. Bar of jurisdiction of courts in questions relating to certain notifications.**

- No court shall question the competence of any authority making or issuing any notification, order or direction, under this Act.

## **24. Saving of certain orders.**

(1) Nothing in this Act shall empower any authority to pass an order under Section 10 or Section 11 of this Act in respect of a person against whom an order under Section 565 of the Code or under the Restriction of Habitual Offenders (Punjab) Act, 1918 (Punjab Act V of 1918), is in force. (2) No court shall be competent to pass an order under Restriction of Habitual Offenders (Punjab) Act, 1918 (Act V of 1918), or under section 565 of the Code, in regard to a person against whom any order under this Act is in force.

## **25. Saving of existing rules.**

- The rules framed under the Criminal Tribes Act (Act VI of 1924) shall continue in force in so far as they are not inconsistent with the provisions of this Act, and shall so remain in force until they are replaced by rules framed under this Act.

## **Schedule**

**1. [All offences mentioned in Chapter XII of the Indian Penal Code.] [Act XLV of 1860.]**

**2. [All offences punishable under the following sections of the Indian Penal Code] [Act XLV of 1960.] :-**

**302.**

, 303, 304, 307, 311, 326, 327, 328, 329, 363, 364, 365, 366-A, 366-B, 368, 369, 376, 377, 379, 380, 381, 382, 384, 385, 386, 387, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 409, 411, 412, 413, 414, 420, 449, 450, 454, 455, 456, 457, 458, 459 and 460.

**3. [Any offence under section 3 of the Public Grabbing Act, 1867.] [Act III of 1867.]**

**4. [Any offence under Essential Supplies (Temporary Powers) Act (Act No. XXIV of 1945) Rules and orders framed and issued thereunder.] [Act XXIV of 1946.]**