

# The Orissa Restriction Of Habitual Offenders Act, 1952

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### Act 24 of 1952

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The Orissa Restriction Of Habitual Offenders Act, 1952[Act No.24 of 1952]An Act to impose certain restrictions on habitual offenders in the State of Orissa;Whereas it is expedient to impose certain restrictions on habitual offenders in the State of Orissa It is hereby enacted as follows:

### 1. Short title, extent and commencement

(1)This Act may be called the Orissa Restriction of Habitual Offenders Act, 1952.(2)It extends to the whole of the State of Orissa.(3)It shall come into force at once.

### 2. Definitions

In this Act, unless there is anything repugnant in the subject or context—(a)"habitual offender" means a person who has been sentenced to substantive terms of imprisonment whether before or after the commencement of the Act—i. for one or the other of the offences in Schedule I on two occasions;ii. for one or the other of the offences in Schedule II on three occasions;iii. for one of the offences in Schedule I and one of the offences in Schedule II on two occasions;Explanation - Any order made requiring a person to give security for good behaviour with reference to Section 110 of the Code of Criminal Procedure, 1898 (V of 1898), shall amount to the passing of a sentence of substantive imprisonment for one or other of the offences under the Indian Penal Code, 1860 (XLV of 1860), as specified in Schedule II within the meaning of this clause;(b)"notified offender" means a habitual offender in respect of whom a notification has been issued under Section 3 and is in force;(c)"prescribed" means prescribed by rules made under this Act;(d)"settlement" means a settlement established or deemed to have been established under Section 7.

### **3. Power to notify habitual offenders**

(1)The District Magistrate if satisfied that any person is a habitual offender may, for reasons to be recorded in writing, by notification—(a)declare that he shall be subject to the provisions of this Act to such extent and subject to such restrictions, if any, as may be specified in the notification;(b)cancel or modify any such declaration.(2)Before any notification is issued in respect of any person under Clause (a) of Sub-section (1) or modified to his disadvantage under Clause (b) of the said sub-section, a reasonable opportunity shall be given to him to show cause against such issue or modification, as the case may be:Provided that if the District Magistrate is satisfied, for reasons to be recorded by him in writing, that it is not reasonably practicable to give to any person, as aforesaid, an opportunity of showing cause, he may issue or, as the case may be, modify such notification without giving such opportunity:Provided further that when a notification is issued in respect of any person without giving him a reasonable opportunity of showing cause, it shall be notified by a proclamation published in such manner as the District Magistrate may by order direct and a copy thereof shall be affixed at such place or places as may be specified in that order for conveying the information to such person :Provided also that issue of such a notification shall not preclude such person from showing cause at any time thereafter.(3)The State Government may cancel any notification issued under Sub-section (1) or modify the same on the application of a person affected by the same or without such an application.

### **4. Notified offenders to intimate residence and change of residence**

As soon as a person is notified as habitual offender he shall—(a)report himself at such intervals and notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence in such manner and to such authority as may be prescribed (b)allow his finger impressions to be recorded by the prescribed authority:Provided that the District Magistrate or any officer authorised by him in this behalf may exempt any such offence or from reporting any temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

### **5. Power to restrict movements of notified offenders**

(1)If in the opinion of the State Government it is expedient so to do, they may, by notification declare that any notified offender shall be restricted in his movements to a specified area.(2)Before making any such declaration, the State Government shall consider—i. the nature of the offences, if any, of which the offender has been convicted and the circumstances under which they were committed;ii. whether the offender employee himself in any lawful occupation and whether such occupation is a real one or merely a pretence for facilitating the commission of offences;iii. the suitability of the area to which his movements are to be restricted; andiv. the manner in which it is proposed that he should earn his living in such area and the adequacy of the arrangements therefore.

## **6. Power to cancel or alter such restrictions**

The State Government may, by notification, cancel any declaration made under Section 5 or alter any area notified under that section: Provided that before issuing any such notification the State Government shall consider the matters referred to in Sub-section (2) of Section 5 in so far as they may be applicable.

## **7. Power to place notified offenders in settlements**

The State Government may, for the purpose of this Act establish industrial, agricultural or reformatory settlement and may order any notified offender to be placed in any such settlement.

## **8. Power to discharge or transfer persons from settlements**

The State Government or any officer authorised by them in this behalf may at any time by an order in writing, direct any notified offenders who may be in a settlement to be discharged or transferred to any other settlement.

## **9. Power to subject voluntary residents in settlements to restrictions and penalties**

The State Government may, by order, direct that any person voluntarily residing in any settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act on a notified offender placed in such settlement

## **10. Penalties**

Any notified offender who contravenes any of the provisions of this Act or any notification, rule or order made thereunder shall be punishable—(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; (b) on a second or 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

## **11. Arrest of notified offenders**

If a notified 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 settlement in which he has been placed, he may be arrested without warrant by any Police Officer, village headman or village watchman and taken before any Magistrate who, on proof of the facts, shall order him to be removed to such area or to such settlement, to be dealt with in accordance with the provisions of this Act and any rules made thereunder.

## **12. Rules for the removal of prisoners to apply in certain cases**

Every law or rule for the time being in force governing the removal of prisoners shall apply to all persons ordered to be placed in a settlement under Section 7 or to be removed under Section 8: Provided that no order from the State Government or the Inspector General of Prisons shall be necessary for the removal of such persons.

## **13. Bar of jurisdiction**

No Court shall question the validity of any notification or order, issued under this Act.

## **13A. Protection of action taken under this Act**

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

## **14. Power to make rules**

(1) The State Government may make rules to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—  
(a) all matters required or allowed by this Act to be prescribed; (b) the intervals, manner and the authority to be prescribed under Section 4; (c) the restrictions to be observed under Section 5 by notified offenders in respect of whom notifications have been issued under Section 3; (d) the grant of certificates of identity to notified offenders, and the inspection of such certificates; (e) the conditions under which notified offenders may be permitted to leave the area to which their movements are restricted or the places in which they are settled; (f) the inspection of the residences of notified offenders; (g) the terms upon which notified offenders may be discharged from the operation of this Act; (h) the management and supervision of settlements including the discipline and conduct of the persons placed in them; and (i) the periodical review of the cases of all persons who have been placed in any settlement under this Act. (3) All rules made under this section shall be published in the Gazette, and upon such publication shall have effect as if enacted in this Act.

## **[See Section 2 (a)]**

Sections of the Indian Penal Code—(302) Murder (304) Culpable homicide not amounting to murder (307) Attempt to murder (308) Attempt to commit culpable homicide (311) Being a thug (382) Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft (392) Robbery (393) Attempt to commit robbery (394) Voluntarily causing hurt in committing robbery (395) Dacoity (396) Murder in Dacoity (397) Robbery or Dacoity, with attempt to cause death or grievous hurt (398) Attempt to commit robbery or Dacoity when armed with deadly weapon (399) Making preparation to commit Dacoity (400) Belonging to a gang of persons associated for habitually committing dacoity (401) Belonging to a wandering gang of persons associated for the

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## [See Section 2 (a)]

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