

The Punjab Prevention of Anti-Social and Hazardous Activities Act, 1976

PUNJAB

India

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Act 39 of 1976

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The Punjab Prevention of Anti-Social and Hazardous Activities Act, 1976 Punjab Act No. 39 of 1976 Statement of Objects and Reasons. - It has been noticed that certain persons individually or as members of a gang habitually commit anti-social offences affecting property or human-body or are so desperate and dangerous as to render their being at large in a particular area hazardous or nuisance to the community. As the existing provisions of law are not adequate to effectively deal with such persons the Government have decided to make special provisions for controlling the movements and activities of such persons with a view to maintaining public order. Since the need of having such special provisions was emergent an Ordinance was promulgated on 4th June, 1976. This Bill seeks to replace that Ordinance. Punjab Gazette Extra, dated 2.9.1976, Page 1710. [The following Act of the State Legislature of Punjab received the assent of the President of India on 16th day of October, 1976 and was first published in the Punjab Gazette Legislative Supplement Part I Page 139 dated 17th October, 1976] [See Punjab Government Gazette Extra dated 17.10.1976, Page 139.]. An Act to make special provisions in the State of Punjab for the prevention of anti-social activities and other activities which are hazardous to the community. Be it enacted by the Legislature of the State of Punjab in the Twenty-seventh Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Punjab Prevention of Anti-Social and Hazardous Activities Act, 1976. (2) It shall be deemed to have come into force on the 4th day of June, 1976.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Commissioner" means the Commissioner of a Division, and includes any officer specially empowered by the State Government to exercise all or

any of the powers of Commissioner under this Act;(b)"District Magistrate" includes any Executive Magistrate specially empowered by the State Government in that behalf;(c)"Goonda" means a person -(i)who either by himself or as a member or leader of a gang habitually commits or attempts to commit or abets the commission of an offence under section 294 or under Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code, 1860, or is so desperate and dangerous as to render his being at large in a particular area hazardous or nuisance to the community; or(ii)who having once been convicted of an offence under one or more of the following Acts is again convicted under :- (a)the Opium Act, 1878(b)the Dangerous Drugs Act, 1930;(c)the Drugs and Cosmetics Act, 1940;(d)the Prevention of Food Adulteration Act, 1954;(e)the Essential Commodities Act, 1955;(f)the Suppression of Immoral Traffic in Women and Girls Act, 1956;(g)section 25, section 26, section 27, section 28 or section 29 of the Arms Act, 1959;(h)the Customs Act, 1962;(i)section 9 of the Punjab Prevention of Beggary Act, 1971; or(j)the Foreign Exchange Regulation Act, 1973; or(iii)who is convicted more than once of an offence under the Public Gambling Act, 1867, within a period of three years; or(iv)who is convicted more than once of an offence under the Punjab Excise Act, 1914, within a period of five years; or(v)against whom an order confiscating any goods or imposing any penalty has been made more than once under the Customs Act, 1962, or the Foreign Exchange Regulation Act, 1973.

3. Externment of Goondas and procedure therefor.

(1)Where a District Magistrate receives information from the District Superintendent of Police or any department of the State Government or the Central Government that any person is a Goonda and that his movements or acts in the district or any part thereof are causing, or are calculated or likely to cause alarm, danger or harm to persons or property, the District Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to remove himself outside the area or any part thereof within the local limits of his jurisdiction.(2)When a District Magistrate deems it necessary to require any person to show cause under sub-section (1), he shall make an order in writing setting forth the substance of the information received under that sub-section and the period, not exceeding six months, for which he will be required to remove himself outside the area or any part thereof within the local limits of his jurisdiction.(3)Every order made under sub-section (2) shall be read over to the person concerned and, if he so desires, the substance thereof shall be explained to him.(4)When an order under sub-section (2) has been read or explained under sub-section (3), the District Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.(5)Such inquiry shall be made, as nearly as may be practicable, in the manner specified in the Code of Criminal Procedure, 1973, for conducting trial and recording evidence in summons cases.(6)For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large in a particular area hazardous or nuisance to the community may be proved by evidence of general repute or otherwise.(7)If upon such inquiry, the District Magistrate is satisfied about the truth of the information received under sub-section (1) with respect to any person, he may by order direct such person to remove himself outside the area or any part thereof within the local limits of his jurisdiction by such route and within such time as may be specified in the order and desist from entering the said area or part thereof, as the case may be, until the expiry of such period, not

exceeding six months, as may be specified in the order.

4. Permission to return temporarily.

- The District Magistrate may, by an order, permit any person in respect of whom an order has been made under sub- section (7) of section 3 to enter or return, for a temporary period, into or to the area from which he was directed to remove himself, subject to such conditions as the District Magistrate may specify and may at any time rescind any such permission.

5. Extension of period or order.

- The District Magistrate may, after giving, except where for reasons to be recorded in writing he is satisfied that it is impracticable so to do, to the person concerned an opportunity of making a representation in that behalf, extend from time to time in the interest of the general public the period specified in the order made under sub-section (7) of section 3, but the period so extended shall in no case exceed two years in the aggregate.

6. Appeal.

(1)Any person aggrieved by an order made under sub- section (7) of section 3, section 4 or section 5 may appeal to the Commissioner in the prescribed manner within fifteen days from the date of such order :Provided that the Commissioner may entertain an appeal after the expiry of the said period of fifteen days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)The Commissioner may either confirm the order, with or without modification, or set it aside, and may, pending disposal of the appeal, stay the operation of the order or pass interim order, subject to such terms, if any, as he thinks fit.

7. Recognizance for certain purposes.

(1)The District Magistrate or the Commissioner shall, for the purpose of -(a)securing the attendance of any person against whom an order under sub-section (7) of section 3 is proposed to be made, or has been made but its operation has been stayed under section 6; or(b)securing the due observance of the restrictions or conditions specified in the order made in respect of any person under section 3, section 4, section 5 or section 6.require such person to enter into a bond, with one or more sufficient sureties and the provisions of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), shall mutatis mutandis apply in relation to such bond as they apply in relation to bonds executed or required to be executed under the said Code.(2)In particular and without prejudice to the generality of the foregoing provisions-(a)if any person who is required to execute a bond under sub- section (1) fails to do so, he shall by an order of the District Magistrate be committed to prison until the expiry of the period for which the bond is to operate or until within such period he executes the bond with one or more sufficient sureties, as the case may be, in terms of the order, and the provisions of sections 119 to 121, 123 and 124 of the Code of Criminal Procedure, 1973, shall mutatis mutandis apply as if the District Magistrate or the Commissioner were a court;(b)section 445, 446 and 447 of

the said Code shall mutatis mutandis apply in relation to all bonds executed under this section as if the District Magistrate or the Commissioner were a court.

8. Arrest etc. of offender failing to remove himself from or re-entering the area specified, in an order made under section 3.

(1) Any person against whom an order has been made under sub-section (7) of section 3, section 4, section 5 or section 6, as the case may be, and who after executing a bond as required by sub-section (1) of section 7-(a) fails to attend the court of District Magistrate for the purpose of inquiry under section 3; (b) fails to remove himself from any area or part thereof as directed by the order; or (c) re-enters the area, from which he was ordered to remove himself during the period of operation of the order, shall, without prejudice to any action that may be taken against him on account of forfeiture of the bond, be liable to be committed to prison until the expiry of the period for which the bond is to operate. (2) Any police officer may arrest without warrant any person reasonably suspected of an act or omission specified in sub-section (1), and shall forward the person so arrested to the nearest Magistrate who shall cause him to be forwarded to the District Magistrate for being committed to prison under sub-section (1).

9. Bar of jurisdiction.

- No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

10. Protection of action taken under this Act.

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or deemed to have been done or intended to be done in pursuance of this Act or of any order made thereunder. (2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or deemed to have been done or intended to be done in pursuance of this Act or of any order made thereunder.

11. Power to make rules.

(1) The State Government may by notification make rules for carrying out the purposes of this Act. (2) Every rule made under this section shall be laid as soon as may be after it is made before the House of State Legislature while it is in session for a total period of ten days which may be comprised of 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 successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees 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.

12. Repeal and saving.

(1)The Punjab Prevention of Anti-Social and Hazardous Activities Ordinance, 1976 (Punjab Ordinance No. 3 of 1976) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.