

The Bengal State Prisoners Regulation, 1818

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The Bengal State Prisoners Regulation, 1818 Regulation 3 of 1818 A Regulation for the confinement of State prisoners

1. Preamble.

- Whereas '[reasons of State connected with defence [or foreign affairs] [Substituted by Adaptation of Laws Order, 1947.], or with the maintenance of public order], occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be inadvisable or improper; and whereas it is fit that in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the [Government] [Substituted by Adaptation of Laws Order, 1937.], and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the [Government] [Substituted by Adaptation of Laws Order, 1937.] all circumstances relating either to the supposed grounds of such determination or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of Zamindars, taluqdars and others [-] [Omitted by Adaptation of Law Order, 1937.] should be attached and placed under the management of the Revenue authorities without having recourse to any judicial proceedings; and whereas it is desirable to make such legal provisions as may secure from injury to the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; [it is hereby enacted as follows]:-

2. Proceeding for placing persons under restraint as State prisoners.

-First - When the reasons stated in the preamble of this Regulation may seem to the [Government] [Substituted by Adaptation of Laws Order, 1937.] to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, [a warrant of commitment] shall be issued by the Government to the officer in whose custody such person is to be placed.[Second. - The warrant of commitment shall be in one of the forms set out in the Appendix to this Regulation which is appropriate to the case] [Substituted by Act 34 of 1850, Section 1].[Authority of warrant - Third. - The warrant of commitment shall in relation to a person to be confined for reasons connected with defence [or foreign affairs] [Substituted by Act 34 of 1850, Section 1.], be sufficient authority for his detention in any fortress, jail or other place in any [Part A State] [Substituted by Adaptation of Laws Order, 1950.], or [Part C State] [Substituted by Adaptation of Laws Order, 1950.], and in relation to any person to be confined for reasons connected with the maintenance of public order in a [State] [Substituted by the Adaptation of Laws Order, 1950.] shall be sufficient authority for his detention in any fortress, jail or other place in that [State] [Substituted for the word 'Province' by Adaptation of Laws Order, 1950.].

2A. [Communication of grounds of detention of detention and opportunity of making representation [Inserted by Adaptation of Laws Order, 1950]

- When any person is detained in pursuance of a warrant of commitment issued by the government, the government shall, as soon as may be, communicate to the State-prisoner the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order:Provided that nothing in this section shall require the government to disclose facts which it considers to be against the public interest to disclose].

3. Officers having custody of State prisoners to submit periodical reports.

- Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and the 1st of July of each year submit a report to the [Government] [Substituted by Adaptation of Laws Order, 1937.][-] [Omitted by Adaptation of Laws Order, 1937.] on the conduct, the health and the comfort of such State prisoner, that the [Government] [Substituted by Adaptation of Laws Order, 1937.] may determine whether the order for his detention shall continue in force or shall be modified.

4. State prisoners in custody of Zila Magistrate, by whom to be visited.

- First - When any State prisoner is in the custody of a Zila [-] [Omitted by Act 1 of 1903.] Magistrate, the Judge [-] [Omitted by Act 16 of 1874, section 1.] are to visit such Stat-prisoner on the occasion of the periodical session, and they are to issue any orders concerning the treatment of the State-prisoner which may appear to them advisable, provided they do not inconsistent with the orders of the [Government] issued on that head.State prisoners in custody of public officer not being Zila Magistrate, by whom to be visited - Second - When any State prisoner is placed in the custody of

any public officer not being a Zila [-] [Omitted by Act 1 of 1903.] Magistrate, the [Government] [Substituted by Adaptation of Laws Orders, 1937.] will instruct either the Zila [-] [Omitted by Act 1 of 1903.] Magistrate, or the Judge or any public officer not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

5. Representations by State-prisoners to be submitted to Government.

- The officer in whose custody any State prisoner may be placed is to forward with such observations as may appear necessary every representation which such State prisoner may from time to time be desirous of submitting to the [Government]

6. Report to Government regarding confinement, etc., of State prisoner.

- Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into custody as may be practicable, report the to [Government] [Substituted by the Adaptation of Laws Order, 1947] whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

7. Appropriation of allowance for support.

- Every officer in whose custody any State-prisoner may be placed shall take care that the allowance fixed for the support of such State-Prisoner is duly appropriated to that object.[7A. Division of functions between Central Government and [State] Government. - (1) Where a person is, or is to be confined in a [Part A State] [Inserted by the Adaptation of Laws Order, 1937.] under this Regulation for reasons connected with defence [or foreign affairs] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.], the warrant of commitment and any orders as to his release or the place of his detention shall be issued by the Central Government, and the amount of the allowance to be fixed for his support shall be fixed by the Central Government to, and applied by, the [State] Government; and all reports and representations to be made under the foregoing provisions of this Regulation shall be submitted and forwarded both to the Central Government and the [State] Government.(2)Subject as aforesaid, all things to be done by or to the Government in relation to any persons confined or to be confined under this Regulation shall be done by or to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(3)References to the preceding section of this Regulation to the Government shall be construed in accordance with the foregoing provisions of this section.(4)Deleted by Bengal State Prisoners Regulation (Amendment) Order, 1947.

8. [Application of provisions of sections 3-7 to present State prisoners.] [Repealed by Act 16 of 1974 section 1 and Schedule]

9. Attachment of estates by order of Government without decision of Court.

- Whenever the [State]Government, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, Jagirdar, taluqdar, or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated [-] [Omitted by the Adaptation of Laws Order, 1937.] to the Judge and Magistrate of the district in which the lands or estates may be situated [-] [[Omitted by ibid Inserted by Act 12 of 1891] [add] [Inserted by Act 12 of 1891.] to the Sadr Diwani Adalat and Nizamat Adalat.

10. Management of attached estates.

- First - The lands or estates which may be so temporarily attached shall be held under the management of the officers of government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under has management.Attached lands not liable to sale in execution-Second - Such lands or estate shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realisation of fines or otherwise, during the period in which they may be so held under attachment.Government to arrange for satisfaction of decrees - Third - In the cases mentioned in the preceding clause the Government will make such arrangements as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

11. Release of estate from attachment.

- Whenever the [State] Government shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.[12. Extent. - This Regulation, so far as it relates to the confinement of persons for reasons connected with defence [or foreign affairs] [Inserted by Adaptation of Laws Order, 1937] extends to the whole of all the [Part A States] [Substituted by the Adaptation of Laws Order, 1950.] and [Part C States] [Substituted by the Adaptation of Laws Order, 1950.]; and so far as relates to other matters, extends to all those [States] [Substituted for the word 'Provisinces' by the Adaptation of Laws Order, 1950.] except Madras [and Bombay] [Substituted by the Adaptation of Laws Order, 1947.].AppendixForms of CommitmentForm of commitment for reasons connected with defence [or foreign affairs] [Substituted by the Adaptation of Laws Order, 1950.]ToThe (here insert the officer's designation).Whereas [-] [Omitted by the Bengal State Prisoners Regulation (Amendment) order, 1947.] [Central Government] [Substituted by the Adaptation of Laws Order, 1950.] for good and sufficient reasons being reasons connected with defence [or foreign affairs] [-] [Ommitted by the Bengal State Prisoners Regulation (Amendment) Order, 1947.] has seen fit to determine that (here insert the State-prisoner's name) shall be placed

under personal restraint at (here insert the name of the place), you are hereby required and commanded in pursuance of that determination to receive the person above named into your custody and to deal with him in accordance with the orders of the Government and the provisions of the Bengal State Prisoners Regulation, 1818. Form of commitment in other cases. To The (here insert officer's designation). Where the Government [-] [[Omitted by the Bengal State Prisoners Regulation (Amendment) Order, 1947].] [Central Government] [Substituted by Adaptation of Laws Order, 1950.] omit the inappropriate words) for good and sufficient reasons, being reasons connected with maintenance of public order, has seen fit to determine that (here insert the State prisoner's name) shall be placed under personal restraint at (here insert the name of the place) you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with in conformity with the orders of the Government and the provisions of the Bengal State Prisoners Regulation, 1818.