

# **The Indian Criminal law Amendment (Maharashtra Amendment) Act, 1975**

MAHARASHTRA

India

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### **Act 38 of 1975**

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The Indian Criminal law Amendment (Maharashtra Amendment) Act, 1975 Maharashtra Act No. 38 of 1975 Statement of Objects and Reasons. - This is a Central Act, therefore the following statement is necessary for reference.

**Part II – of the Criminal Law Amendment Act, 1908, deals with unlawful association. By Bombay Act XXIV of 1959, sections 15(2)(b), 16 and 17-A to 17-D of the Act, in its application to the State of Maharashtra were deleted and revised. Section 17-F was substituted.**

Rule 33 of the Defence and Internal Security of India Rules, 1971, regarding control and winding up of certain organisations, had been applied to certain organisations and may be applied to some more organisation in future. When rule 33 is applied to any organisation, certain provisions of the Criminal Law Amendment Act, 1908 apply in relation to those organisations as they apply in relation to an unlawful association under that Act by virtue of sub-rule (4) of rule 33. In order to enable the Government to deal effectively with such organisations in this State it was necessary to restore immediately the provisions in the Criminal Law Amendment Act, 1908, which were deleted by Bombay Act XXIV of 1959, with certain modifications. Statement of Objects and Reasons. - "Recent events have demonstrated that it is expedient to provide for the more speedy trial of anarchical offence and for the supersession of associations, dangerous to the public peace. This Bill has been prepared to meet these objects.

**Part II – is for the suppression of unlawful associations. Such persons as are members of or in any way assist an association which encourages or aids the commitment of acts of violence or intimidation or of which the members habitually commit such acts, are made liable to punishment and a severe punishment is provided for persons managing or promoting such associations. Further the Governor-General in Council is empowered to declare certain associations to be unlawful, and the same penalties are provided for persons who after this declaration maintain their connection with them.**

The Bill extends in the first instance to the Provinces of Bengal and Eastern Bengal and Assam and the Governor-General in Council is empowered to extend it to other Provinces".Gazette of India, 1908, Part-IV, p. 203Statement of Objects and Reasons. - With a view to securing uniformity in the application of laws throughout the State of Bombay it was proposed to extend the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932 to the Hyderabad and Saurashtra areas of the State and to repeal the laws in force, in this regard, in those areas.In view of the Supreme Court Judgement in the State of Madras v. G. Row, section 15(2)(b) which defined partly the term "unlawful association" and section 16 which dealt with the power of the State Government to declare an association to be unlawful of the Indian Criminal Law Amendment Act, 1908, were void. It was therefore, proposed to delete sections 15(2)(b) and 16 of the principal Act of 1908.It was also proposed to delete section 16-A inserted in the original Act by the Bombay Public Security Measures Act, 1947 (Bombay IV of 1947) which had expired, and the connected sections 17-A, 17-B, 17-C and 17-D.The Indian Press (Emergency Powers) Act, 1931 (XXIII of 1931), referred to in sub-section (2) of section 5 of the Criminal Law Amendment Act, 1932, had already been repealed, and sections 18 and 19 of the Criminal Law Amendment Act, 1932, which had served their purpose had become superfluous. It was therefore, proposed to amend suitably section 5 of the Act of 1932 and to delete sections 18 and 19 of the said Act.This Act was designated to achieve the above objects.[Dated 8th September, 1975]For Statement of Objects and Reasons, see Bombay Government Gazette, 1975, Part V, p. 502.An Act to amend the Indian Criminal Law Amendment Act, 1908.Whereas both Houses of the Legislature of the State were not in session;And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Maharashtra, for the purposes hereinafter appearing; and therefore, promulgated the Indian Criminal Law Amendment (Maharashtra Amendment) Ordinance, 1975, on the 10th day of July, 1975;And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows :-

## **1. Short title and commencement.**

(1) This Act may be called the Indian Criminal Law Amendment (Maharashtra Amendment) Act, 1975. (2) It shall be deemed to have come into force on the 10th day of July, 1975.

## **2. Amendment of section 15 of Act XIV of 1908.**

- In section 15 of the Indian Criminal Law Amendment Act, 1908, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), in clause (2), after the words "habitually commit such acts", the following shall be inserted, namely :- "or (b) which has been declared to be unlawful by the State Government under the powers hereby conferred."

## **3. Insertion of section 16 in Act XIV of 1908.**

- After section 15 of the principal Act, the following section shall be inserted, namely :- "16. Power to declare association unlawful. - If the State Government is of opinion that any association interferes or has for its object interference with the public administration or the maintenance of supplies and services essential to the life of the community or the administration of the law or the maintenance of law and order, or that it constitutes a danger to the public peace, the State Government may, by notification in the Official Gazette, declare such association to be unlawful."

## **4. Amendment of section 17 of Act XIV of 1908.**

- In section 17 of the principal Act, in sub-section (3), for the words and figures "Code of Criminal Procedure, 1898" the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

## **5. Insertion of sections 17A to 17D in Act XIV of 1908.**

- After section 17 of the principal Act, the following sections shall be inserted, namely :- "17A. Power to notify and take possession of places used for the purposes of an unlawful association. - (1) The State Government or in any area for which a Commissioner of Police is appointed the Commissioner of Police and elsewhere the District Magistrate, may, by notification in the Official Gazette, notify any place which in its or his opinion used for the purposes of an unlawful association. Explanation. - For the purposes of this section, 'place' includes a house or building, or part thereof, or a tent or vessel. (2) When any place is notified under sub-section (1), the Commissioner of Police or the District Magistrate, or any officer authorised in this behalf in writing by the Commissioner of Police or District Magistrate, as the case may be, may take possession of the notified places and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the State Government : Provided that, where such place contains any apartment occupied by women or children reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience. (3) A notified place whereof possession is taken under subsection (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

**17B. Moveable property found in a notified place. - (1) The Commissioner of Police, District Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.**

(2) If, in the opinion of the Commissioner of Police or District Magistrate, as the case may be, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed, subject to the provisions hereafter contained in this section, to order such articles to be forfeited to Government. (3) All other articles specified in the list shall be delivered to the person whom the Commissioner of Police or District Magistrate, as the case may be, considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as he may direct. (4) The Commissioner of Police or District Magistrate, as the case may be, shall publish, as nearly as may be, in the manner provided in section 82 of the Code of Criminal Procedure, 1973, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article. (5) Where any such representation is accepted by the Commissioner of Police or District Magistrate, he shall deal with the article concerned in accordance with the provisions of sub-section (3). (6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded in Greater Bombay to the Chief Judge of the Small Cause Court and elsewhere to the District Judge, and no order of forfeiture shall be made until the Chief Judge of the Small Cause Court or District Judge, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed, the articles shall be dealt with in accordance with the provisions of sub-section (3). (7) In making an adjudication under sub-section (6), the procedure to be followed shall be the procedure laid down in Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the Chief Judge of the Small Cause Court or District Judge, as the case may be, shall be final. (8) If the article seized is livestock or is of a perishable nature, the Commissioner of Police or District Magistrate may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles,

**17C. Trespass upon notified places. - Any person who enters or remains upon a notified place without the permission of the Commissioner of Police or District Magistrate or of an officer authorised in this behalf by the Commissioner of Police or District Magistrate, as the case may be, shall be deemed to commit trespass.**

**17D. Relinquishment of property. - Before a notification under sub-section (1) of section 17A is cancelled, the State Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places."**

## **6. Amendment of section 17E of Act XIV of 1908.**

- In section 17E of the principal Act, -(a)in sub-section (3), -(i)for the words "to the District Judge in a district, or to the Chief Judge of the Small Cause Court in a presidency-town," the words "in Greater Bombay to the Chief Judge of the Small Cause Court, and elsewhere to the District Judge," shall be substituted;(ii)for the words "unless the District Judge or Chief Judge of the Small Cause Court" the words "unless the Chief Judge of the Small Cause Court or District Judge" shall be substituted;(b)in sub-section (4), for the words "the District Judge or Chief Judge of the Small Cause Court", the words "the Chief Judge of the Small Cause Court or District Judge," shall be substituted;(c)in sub-section (7), for the words and figures "Code of Criminal Procedure, 1898" the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

## **7. Substitution of section 17F of Act XIV of 1908.**

- For section 17F of the principal Act, the following section shall be substituted, namely :-"17F. Jurisdiction barred. - Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E, no proceeding purporting to be taken under section 17A, 17B, 17C, 17D, or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be taken under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

## **8. Repeal of Maharashtra Ordinance VI of 1975 and saving.**

(1)The Indian Criminal Law Amendment (Maharashtra Amendment) Ordinance, 1975, is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken (including any notification issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the principal Act, as amended by this Act.