

The Karnataka Prevention Of Dangerous Activities Of Acid Attackers, Bootleggers, Depredator Of Environment, Digital Offenders, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Land-Grabbers, Money Launderers, Sexual Predator And Video Or Audio Pirates, 1985

KARNATAKA

India

The Karnataka Prevention Of Dangerous Activities Of Acid Attackers, Bootleggers, Depredator Of Environment, Digital Offenders, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Land-Grabbers, Money Launderers, Sexual Predator And Video Or Audio Pirates, 1985

Act 12 of 1985

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The Karnataka Prevention Of Dangerous Activities Of Acid Attackers, Bootleggers, Depredator Of Environment, Digital Offenders, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Land-Grabbers, Money Launderers, Sexual Predator And Video Or Audio Pirates, 1985 KARNATAKA ACT No. 12 OF 1985 An Act, to provide for preventive detention of Acid Attackers, Bootleggers, Depredator of Environment, Digital Offenders, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Land-Grabbers, Money Launderers, Sexual predator And Video or Audio Pirates for preventing their dangerous activities prejudicial to the maintenance of public order. WHEREAS public order is adversely affected every now and then by the dangerous activities of certain persons, who are known as bootleggers, drug-offenders, gamblers, goondas, immoral traffic offenders and slum-grabbers and video and audio pirates BE it enacted by the Karnataka State Legislature in the Thirty-sixth Year of the Republic of India as follows:-

1. Short title and commencement.-

(1) This Act may be called the Karnataka Prevention of Dangerous Activities of Acid Attackers, Bootleggers, Depredator of Environment, Digital Offenders, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders, Land-Grabbers, Money Launderers, Sexual predator And Video or Audio Pirates Act, 1985. (2) It shall be deemed to have come into force on the Fifteenth day of December, 1984.

2. Definitions.--

In this Act, unless the context otherwise requires, -(a) "acting in any manner prejudicial to the maintenance of public order" means, -(i) in the case of acid attacker, when he is engaged or making preparations for engaging in any offences under sections 326A and 326B of the Indian Penal Code (Central Act XLV of 1860) which affect adversely, or are likely to affect adversely, the maintenance of public order; (ii) in the case of a bootlegger, when he is engaged or is making preparations for engaging, in any of his activities as a bootlegger which affect adversely or are likely to affect adversely the maintenance of public order; (iii) in the case of depredator of environment, when he is engaged or making preparations for engaging in any of his activities as a depredator of environment, which affect adversely or likely to affect adversely the maintenance of public order; (iv) in the case of digital offender, when he is engaged, or is making preparations for engaging in any of his activities as a digital offender, which affect adversely or are likely to affect adversely, the maintenance of public order. (v) in the case of a drug-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a drug-offender, which affect adversely or are likely to affect adversely the maintenance of public order; (vi) in the case of a gambler when he is engaged, or is making preparations for engaging in any of his activities as a gambler which affect adversely or are likely to affect adversely the maintenance of public order; (vii) in the case of a goonda when he is engaged, or is making preparations for engaging, in any of his activities as a goonda which affect adversely or are likely to affect adversely the maintenance of public order; (viii) in the case of an immoral traffic offender when he is engaged, or is making preparations for engaging in any of his activities as on immoral traffic offender which affect adversely, or are likely to affect adversely, the maintenance of public order; (ix) in the case of a land-grabber, when he is engaged, or is making preparations for engaging, in any of his activities as a land-grabber, which affect adversely or are likely to affect adversely the maintenance of public order; (xi) in the case of money launderer, when he is engaged, or is making preparations for engaging in any of his activities as a money launderer, which affect adversely or are likely to affect adversely, the maintenance of public order; (xii) in the case of sexual predator, when he is engaged, or making preparations for engaging in any offences under Sections 376, 376A, 376B, 376C, 376D and 376E of the Indian Penal Code (IPC) and under the Protection of Children from Sexual Offences Act, 2012 which affect adversely or likely to affect adversely the maintenance of public order; (xiii) In the case of a Video or Audio pirate, when he is engaged or is making preparations for engaging in any of his activities as a Video or Audio pirate habitually for commercial gain, which affect adversely, or are likely to affect adversely, the maintenance of public order. Explanation.- For the purpose of this clause, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely inter alia if any of the activities of any of the persons referred to in this clause directly or indirectly, is causing or

is calculated to cause any harm, danger or alarm or a feeling of insecurity, among the general public or any section thereof or a grave or widespread danger to life or public health.(a)"Acid Attackers" means a person who commits or attempts or abets the commission of any offences under sections 326A and 326B of the Indian Penal Code (Central Act XLV of 1860) and the Poisons Act, 1919 and Mysore Poisons Rules 1966;(b)"bootlegger" means a person, who distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any of the provisions of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) and the rules, notifications and orders made thereunder, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money or supplies any animal, vehicle, vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such things;(c)"detention order" means an order made under section 3;(d)"detenue" means a person detained under a detention order;(e)"Depredator of Environment" means a person who by any direct act or omission by which he derives for himself or for any other person pecuniary or commercial benefit, commits an offence under any law relating to protection of environment or rivers or under any law relating to sand mining from any place or under any law relating to quarrying or mining, or who commits or abets the commission of offences punishable under any law relating to conservation of forest or wildlife;(f)"Digital Offender" means any person who knowingly or deliberately violates, for commercial purposes any copy right law in relation to any book, music, film, software, artistic or scientific work and also includes any person who illegally enters through the identity of another user and illegally uses any computer or digital network for pecuniary gain for himself or for any other person or commits any of the offences specified under section 67, 68, 69, 70, 71, 72, 73, 74 and 75 of the Information Technology Act, 2000 (Central Act 21 of 2000);(g)"drug-offender" means a person, who manufactures, stocks, imports, exports, sells or distributes any drug or cultivates any plant or does any other thing in contravention of any of the provisions of the Drugs and Cosmetics Act, 1940 (Central Act XXIII of 1940), or the Dangerous Drugs Act, 1930 (Central Act II of 1930) and the rules, notifications and orders made under either Act, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such things;(h)"gambler" means a person, who commits or abets the commission of any offence punishable under Chapter VII of the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964) including an offence of gambling relatable to "matka" and punishable under the said Chapter;(i)"goonda" means a person who either by himself or as a member of or leader of a gang, habitually commits or attempts to commit or abets the commission of offences punishable under Chapter VIII. Chapter XV, Chapter XVI Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act XLV of 1860);(j)"immoral traffic offender" means a person who commits or abets the commission of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956);(k)"land-grabber" means a person, who illegally takes possession of any land (whether belonging to Government, local authority or any other person) including tank bed or enters into, or creates illegal tenancies or leave and license agreements or any other agreement in respect of such lands; or who constructs unauthorized structures thereon for sale or hire, or gives such lands to any person on rental or leave and license basis for construction or use and occupation, of unauthorized structures or who knowingly gives financial aid to any person for taking illegal possession of such

lands, or for construction of unauthorized structures thereon, or who collects or attempts to collect from any occupier of such lands, rent, compensation or other charges by criminal intimidation, or who evicts or attempts to evict any such occupier by force without resorting to the lawful procedure; or who abets in any manner the doing of any of the above mentioned things;(l)"Money Launderer" means a person who by any direct act by which he derives pecuniary benefits for himself or for any other person commits or abets any of the offences specified in Part-A of the Schedule of the Prevention of Money Laundering Act, 2002;(m)"Sexual predator" means a person, who commits or attempts or abets the commission of any offences under sections 376, 376A, 376B, 376C, 376D and 376E of the Indian Penal Code (Central Act XLV of 1860), or offences under the Protection of Children from Sexual Offences Act, 2012 (POCSO);(n)"unauthorised structure" means any structure constructed without express permission in writing of the appropriate authority under, and in accordance with any law for the time being in force in the area concerned (o)"Video or Audio pirate" means a person who commits or attempts to commit or abets the commission of offences of infringement of copy right habitually for commercial gain, in relation to cinematograph film or a record embodying any part of the sound track associated with the film, punishable under the Copy Right Act, 1957 (Central Act XIV of 1957).

3. Power to make orders detaining certain persons.-

(1)The State Government may, if satisfied with respect to any Acid Attacker or Bootlegger or Depredator of Environment or Digital Offender or Drug Offender or Gambler or Goonda or Immoral Traffic Offender or Land-Grabber or Money Launderer or Sexual predator or Video or Audio Pirate that with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such persons be detained.(2)If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the sub-section:Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.(3)When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government.

4. Execution of detention orders.-

A detention order may be executed at any place in the State in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

5. Power to regulate place and conditions of detention.-

Every person in respect of whom a detention order has been made shall be liable, -(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order, specify; and (b) to be removed from one place of detention to another place of detention, within the State by order of the State Government.

6. Detention orders not to be invalid or inoperative on certain grounds.-

No detention order shall be invalid or inoperative merely by reason, -(a) that the person to be detained thereunder though within the State is outside the limits of the territorial jurisdiction of the officer making the order, or (b) that the place of detention of such person, though within the State, is outside the said limits.

6A. Grounds of detention severable.-

Where a person has been detained in pursuance of an order of detention under sub-section (1) or sub-section (2) of section 3, which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds, and accordingly, -(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are, -(i) vague; (ii) non-existent; (iii) not-relevant; (iv) not connected or not proximately connected with such person; or (v) invalid for any other reason whatsoever; and it is not, therefore, possible to hold that the Government or the officer making such order would have been satisfied as provided in sub-section (1) of section 3 with reference to the remaining ground or grounds and made the order of detention; (b) the Government or the officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) or sub-section (2), after being satisfied as provided in sub-section (1) with reference to the remaining ground or grounds.

7. Powers in relation to absconding persons.-

(1) If the State Government, or an officer mentioned in sub-section (2) of section 3 has reason to believe that a person in respect of whom a detention order has been made has absconded, or is concealing himself so that the order cannot be executed, then the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (Central act 2 of 1974), shall apply in respect of such person and his property, subject to the modifications mentioned in this sub-section, and, irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent court. Where the detention order is made by the State Government, an officer, not below the rank of District Magistrate or Commissioner of Police authorised by the State Government in this behalf, or where the detention order is made by an officer, mentioned in sub-section (2) of section 3 such officer as the case may be, shall irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent court under sections 82, 83, 84 and 85 of the said Code for issuing a

proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the said section. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the court of session having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.(2)(a)Notwithstanding anything contained in sub-section (1), if the State Government have or an officer mentioned in sub-section (2) of section 3 has, reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the State Government or the Officer, as the case may be, may, by order, notified in the official Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.(b)If such person fails to comply with such order unless he proves that it was not possible for him to comply therewith, and that he had, within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.(c)Notwithstanding anything contained in the said Code, every offence under clause (b) shall be cognizable.

8. Grounds of order of detention to be disclosed to persons affected by the order.-

(1)When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.(2)Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. Constitution of Advisory Board.-

(1)The State Government shall, whenever necessary constitute one or more Advisory Boards for the purpose of this Act.(2)The constitution of every such Board shall be in accordance with the recommendation of the Chief Justice of the High Court of Karnataka.(3)Every such Board shall consist of a Chairman and two other members and the Chairman shall be serving judge of the High Court of Karnataka and the other members shall be serving or retired judges of any High Court.

10. Reference to Advisory Board.-

In every case where a detention order has been made under this Act the State Government shall within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made against the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3.

11. Procedure of Advisory Board.-

(1)The Advisory Board shall after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desire to be heard, after hearing him in person, submit its report to the State Government, within seven weeks from the date of detention of the person concerned.(2)The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.(3)When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.(4)The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.(5)Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

12. Action upon report of Advisory Board.-

(1)In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the State Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in section 13, as they think fit.(2)In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the person to be released forthwith.

13. Maximum period of detention.-

The maximum period for which any person may be detained, in pursuance of any detention order made under this Act which has been confirmed under section 12 shall be twelve months from the date of detention.

14. Revocation of detention orders.-

(1)Without prejudice to the provisions of section 21 of the Karnataka General Clauses Act, 1899, a detention order may, at any time, be revoked or modified by the State Government, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3.(2)The revocation or expiry of a detention order (hereinafter in this sub-section referred to as the earlier detention order) shall not, whether such earlier detention order has been made before or after the commencement of the Karnataka Prevention of Dangerous Activities of Boot-leggers, Drug-offenders, Goondas, Immoral traffic Offenders and Slum-Grabbers (Amendment) Act, 1987, bar the making of another detention order (hereinafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person:Provided that in a case where

no fresh facts have arisen after the revocation or expiry of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall in no case, extend beyond the expiry of a period of twelve months, from the date of detention under the earlier detention order.¹

15. Temporary release of persons detained .-

(1)The State Government, may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period, either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time cancel his release.(2)In directing the release of any detainee under sub-section (1), the State Government may require him to enter into a bond, with or without sureties, for the due observance of the conditions specified in the direction.(3)Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.(4)If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine or with both.(5)If any person released under sub-section (1), fails to fulfill any of the conditions imposed upon him under sub-section (1) or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. Protection of action taken in good faith.-

No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person, for anything in good faith done or intended to be done in pursuance of this Act.

17. Detention Order against acid attacker, bootlegger, depredator of environment, digital offender, drug offender, gambler, goonda, immoral traffic offender, land-grabber, money launderer, sexual predator and video or audio pirate to be made under this Act and not under national security Act.--

On and after the commencement of this Act, no order of detention under the National Security Act, 1980 (Central Act 65 of 1980) shall be made by the State Government or any of their officers under that Act, in respect of any acid attacker, bootlegger, depredator of environment, digital offender, drug offender, gambler, goonda, immoral traffic offender, land-grabber, money launderer, sexual predator or video or audio pirate in the State of Karnataka, on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, which order of detention may be or can be made against such person under this Act 18. Repeal and savings .-(1)The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum grabbers Ordinance, 1984 (Karnataka Ordinance 16 of 1984) 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.