

The Andhra Pradesh Prevention Of Dangerous Activities Of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders And Land-Grabbers Act, 1986.

ANDHRA PRADESH

India

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Act 1 of 1986

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The Andhra Pradesh Prevention Of Dangerous Activities Of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders And Land-Grabbers Act, 1986. ACT No. 1 OF 1986 [28th February, 1986] An Act to provide for preventive detention of Boot-leggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers 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 boot-leggers, dacoits, drug-offenders, goondas, immoral traffic offender and land-grabbers. And whereas having regard to the resources and influence of the persons by whom, the large-scale on which, and the manner in which the dangerous activities are being clandestinely organised and carried on in violation of Jaw by them, as boot-leggers, dacoits, drug-offenders, goondas, immoral traffic offenders or land-grabbers in the State of Andhra Pradesh and particularly in its urban areas, it is necessary to have a special law in the State of Andhra Pradesh to provide for preventive detention of these six classes of persons and for matters connected therewith : Be it enacted by the Andhra Pradesh Legislative Assembly-in the Thirty-sixth Year of the Republic of India as follows :-

1. Short title, extent and commencement

(1) This Act may be called the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986. (2) It

extends to the whole of the State of Andhra Pradesh.

2. Definitions

In this Act, unless the context otherwise requires,—(a)"acting in any manner prejudicial to the maintenance of public order" means when a boot-legger, a dacoit, a drug-offender, a goonda, an immoral traffic offender or a land-grabber is engaged or is making preparations for engaging, in any of his activities as such, which affect adversely, or are likely to affect adversely, the maintenance of public order:Explanation:—Far 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, indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave wide-spread danger to life or public health(b)"boot-legger" means a person, who distils, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any of the provisions of the Andhra Pradesh Excise Act, 1968 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 himself or through any other person, or who abets in any other manner the doing of any such thing;(c)"dacoit" means a person who either by himself or as a member of or leader of a gang commits or abets the commission of any of the offences punishable under sections 395 to 400 of the Indian Penal Code, 1860;(d)"detention order" means an order made under section 3;(e)"detenu" means a person detained under a detention order;(f)"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 or the Dangerous Drugs Act, 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 above mentioned things by himself or through any other person or who abets in any other manner the doing of any such thing;(g)"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 or Chapter XVII or Chapter XXII of the Indian Penal Code;(h)"Government" means the State Government of Andhra Pradesh ;(i)"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;(j)"land-grabber" means a person, who illegally takes possession of any land (whether belonging to Government, local authority or any other person) or enters into or creates illegal tenancies or lease and licence, agreements or any other agreement in respect of such lands; or who constructs unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis or for construction or use and occupation of unauthorised structures or who knowingly gives financial aid to any person for taking illegal possession of such lands, or for construction of unauthorised 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;(k)"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.

3. Power to make orders detaining certain reasons

(1)The Government may, if satisfied with respect to any boot-legger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber that with a view to preventing 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 person 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 Government are satisfied that it is necessary so to do, they 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 said sub-section:Provided that the period specified in the order made by the Government under this sub-section shall not in the first instance, exceed three months, but the 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 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 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 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 Government.

6. Detention orders not to be invalid or in-operative 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.

7. Power in relation to absconding persons

(1) If the 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 then the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure (Central Act 2 of 1974) 1973, 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 Government, an Officer, not below the rank of District Magistrate or Commissioner of Police authorised by the 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 sections. 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 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 Government or the Officer, as the case may be, may by order notified in the Andhra Pradesh 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 to order to the 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 Boards

(1)The Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.(2)Every such Board shall consist of a Chairman and two other members, who are, or have been Judges or are qualified to be appointed as Judges of a High Court.

10. Reference to Advisory Boards

In every case where a detention order has been made under this Act, the Government shall within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by them under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in the 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 Boards

(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 Government or from any person called for the purpose through the 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 desires to be heard, after hearing him in person, submit its report to the 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 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 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 Act 1 of 1891

(1) Without prejudice to the provisions of section 15 of the Andhra Pradesh General Clauses Act, 1891 a detention order may, at any time, be revoked or modified by the 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 shall not bar the making of a fresh detention order under section 3 against the same person, in any case, where fresh facts have arisen after the date of revocation or expiry, on which the Government or an Officer, as the case may be, are or is satisfied that such an order should be made.

15. Temporary release of persons detained

(1) The 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 person under sub-section (1), the 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 subsection, (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 fulfil any of the conditions imposed upon him under the said sub-section 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 Government or any officer or person, for anything in good faith done or intended to be done in pursuance of this Act.

17. Detention orders against any boot-legger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber to be made under this Act and not under National Security Act Central Act 65 of 1980

On and after the commencement of this Act no order of detention under the National Security Act, 1980 shall be made by the Government or any of their officers under that Act in respect of any,

bootlegger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber in the State of Andhra Pradesh on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, where an order of detention may be or can be made against such person, under this Act.