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THE TAMIL NADU RESTRICTION OF HABITUAL OFFENDERS ACT, 1948.

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[1][TAMIL NADU] ACT No. VI OF 1948[2].

[THE [1](TAMIL NADU) RESTRICTION OF HABITUAL OFFENDERS ACT, 1948]

(Received the assent of the Governor-General on the 24th April 1948; first published in the Fort St. George Gazette Extraordinary, on the 28th April 1948.)

An Act for imposing certain restrictions on habitual offenders in the [3][State of Tamil Nadu].

WHEREAS it is expedient to impose certain restrictions on habitual offenders in the [3][State of Tamil Nadu]; It is hereby enacted as follows :—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the [3][Tamil Nadu] Restriction of Habitual Offenders Act, 1948.

(2) It extends to the whole of the [3][State of Tamil Nadu].

(3) It shall come into force on the 28th day of April 1948.

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[1] These words were substituted for the words "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

[2] For Statement of Objects and Reasons, see Fort St. George *Gazette*, dated the 5th March 1948, Part IV, pp. 225-230.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the First Schedule to, the Tamil Nadu (Transferred Territories) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960), repealing the corresponding law in force in that territory.

[3] This expression was substituted for the expression "Province of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 1st January 1969.

[4] This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

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Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "district" includes the presidency-town;

(2) "District Magistrate" means in the case of the presidency-town, the Commissioner of Police;

(3) "Government" means the [1][State] Government ;

(4) "habitual offender" means a person who, before or after the commencement of this Act, has been sentenced to a substantive term of imprisonment, such sentence not having been setaside in appeal or revision, on not less than three occasions,[2][for any one or more of the scheduled offences] each of the subsequent sentences having been passed in respect of an offence committed after the passing of the sentence on the previous occasion ;

Explanation.—The passing of an order requiring a person to give security for good behaviour with reference to section 110 of [3][the Code of Criminal Procedure, 1973] (Central Act 2 of 1974) shall be deemed to amount to the passing of a sentence of substantive imprisonment within the meaning of this clause.

(5) "notification" means a notification published in the *Fort St. George Gazette*;

(6) "notified offender" means a habitual offender in respect of whom a notification has been issued under section 3 and is in force;

(7) "prescribed" means prescribed by rules made under this Act ;

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] This expression was substituted for the expression " for one or another of the offences under the Indian Penal Code (Central Act XLV of 1860) set forth in the Schedule " by section 2(1) (a) of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

[3] This expression was substituted for the expression " the Code of Criminal Procedure, 1898 (Central Act V of 1898) " by section 2(1) (b), *ibid.*

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[1][(7-A) 'scheduled offence' means an offence specified in the Schedule;]

(8) "settlement" means a settlement established or deemed to be established under section 8.

NOTIFICATION OF OFFENDERS AND RESTRICTIONS OF THEIR MOVEMENTS.

[2][3. (1) The Government may, by notification, if they are satisfied that any person is a habitual offender declare that he shall be subject to the provisions of this Act to such extent and subject to such restrictions, if any, as may be specified in the notification. Power of Government to notify habitual offenders.

(2) Every notification issued under sub-section (1) shall be in force for a period of five years from the date of the publication of such notification, but the Government may, by notification, at any time before the expiry of the said period, cancel or modify any notification issued under sub-section (1).

(3) The cancellation of a notification or the expiry of the period of five years, under sub-section (2) shall not be deemed to affect the power of the Government under sub-section (1) to issue a notification in respect of a habitual offender as often as he is sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, for any one or more of the scheduled offences at any time after such cancellation or expiry.

(4) Notwithstanding anything contained in sub-section (2), where a notified offender is sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, for any one or more of the scheduled offences, the Government

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1 This clause was inserted by section 2(2) of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

2 This section was substituted for the original section 3 by section 3, *ibid.*

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may direct that the notification issued under sub-section (1) in respect of such notified offender shall be in force for a further period of five years from the date of his release from such imprisonment.

(5) Before any notification is issued in respect of any person under sub-section (1), or modified to his disadvantage under sub-section (2), or before any direction is issued in respect of any notified offender under sub-section (4), a reasonable opportunity shall be given to him to show cause against such issue, modification or direction, as the case may be.

Delegation of powers to District Magistrate.

4. The Government may, by notification, delegate their powers under section 3 to a District Magistrate, in respect of persons ordinarily residing in his district, subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by them.

Notified offenders to intimate residence and change of residence.

5. Every notified offender shall intimate to such authority and in such manner as may be prescribed, his place of residence, every change or intended change thereof, and every absence or intended absence therefrom :

Provided that the District Magistrate or any officer authorized by him may exempt any such offender from reporting any temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

Power to restrict movements of notified offenders.

6. (1) [1][If in the opinion of the Government it is necessary or expedient in the interests of the general public so to do], they may, by notification, declare that any notified offender shall be restricted in his movements to a specified area.

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[1] These words were substituted for the words " If in the opinion of the Government it is expedient to do so" by section 4 of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

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(2) Before making any such declaration, the Government shall consider—

(i) the nature of the offences, if any, of which the offender has been convicted and the circumstances in which they were committed ;

(ii) whether the offender follows any lawful occupation, and whether such occupation is a real one or merely a pretence for facilitating the commission of offences ;

(iii) the suitability of the area to which his movements are to be restricted ;

(iv) the manner in which it is proposed that he should earn his living in such area, and the adequacy of the arrangements therefor.

Power to cancel or alter such restrictions.

7. The Government may, by notification, cancel any declaration made under section 6 or alter any area notified under that section or this section ; and the District Magistrate may, by order in writing, alter any area notified under section 6 or this section into any other area situated in his district :

Provided that before issuing any such notification or order, the Government or the District Magistrate shall consider the matters referred to in section 6, sub-section (2), in so far as they may be applicable.

SETTLEMENTS.

Power to place notified offenders in settlements.

8. The Government may establish industrial, agricultural or reformatory settlements and may order any notified offender to be placed in any such settlement.

Power to discharge or transfer persons from settlements.

9. The Government or any officer authorized by them may at any time, by order, direct any notified offenders who may be in a settlement to be discharged or transferred to any other settlement.

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Power to subject voluntary residents in settlements to restrictions and penalties.

10. The Government may, by order, direct that any person voluntarily residing in any settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act on a notified offender placed in such settlement.

RULES.

Power to make rules.

11. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(*a*) all matters required or allowed by this Act to be prescribed ;

[1][(aa) the manner and method of service of notification on the notified offender concerned;]

(*b*) the restrictions to be observed by notified offenders in respect of whom notifications or orders have been issued under section 6 or section 7 ;

(*c*) the grant of certificates of identity to notified offenders, and the inspection of such certificates ;

(*d*) the conditions under which notified offenders may be permitted to leave the area to which their movements are restricted or the places in which they are settled ;

(*e*) the inspection of the residences of notified offenders ;

(*f*) the terms upon which notified offenders may be discharged from the operation of this Act ;

(*g*) the management and supervision of settlements including the discipline and conduct of the persons placed in them ;

[1] This clause was inserted by section 5(1) of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

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(*h*) the periodical review of the cases of all persons who have been placed in any settlement under this Act.

[1][(3) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued as soon as possible, after it is made, or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session, in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 or notification.]

PENALTIES AND PROCEDURE.

12. Any notified offender who contravenes, any of the provisions of this Act or any notification, rule or order made thereunder shall be punishable— Penalties.

(*a*) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ;

[1] These sub-sections were substituted for sub-section (3) by section 5 (2) of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

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(*b*) on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Arrest of notified offenders.

13. If a notified offender—

(*a*) is found outside the area to which his movements have been restricted, in contravention of the conditions under which he is permitted to leave such area, or

(*b*) escapes from any settlement in which he has been placed,

he may be arrested without warrant by any police officer, village headman or village watchman. [If the offender is arrested, he shall be informed as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and the offender shall not be detained beyond the said period without the authority of the Magistrate. The Magistrate shall, on production of the offender and on proof of the facts, order him to be removed] to such area or to such settlement, there to be dealt with in accordance with this Act and any rules made thereunder.

Rules for the removal of prisoners to apply in certain cases.

14. Every law or rule for the time being in force governing the removal of prisoners shall apply to all persons ordered to be placed in a settlement under section 8 or to be removed under section 13 :

Provided that no order from the Government or the Inspector-General of Prisons shall be necessary for the removal of such persons.

[1] These words were substituted for the words "and taken before a Magistrate who, on proof of the facts, shall order him to be removed" by the Adaptation (Amendment) Order of 195(.

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MISCELLANEOUS.

15. No Court shall question the validity of any notification (other than one under section 3), or order, issued under this Act. Bar of jurisdiction.

[1][**15-A.** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

15-B. (1) The Government may, by notification, amend the Schedule. Power to amend Schedule.

(2) Any reference made in this Act to the Schedule shall be considered as relating to the Schedule as for the time being amended in exercise of the powers conferred by sub-section (1).]

Central Act VI of 1924.

16. (1) In respect of every person who stood registered under the Criminal Tribes Act, 1924* (hereinafter in this section referred to as the said Act) at the commencement of this Act and who, within a period of five years immediately preceding such commencement, had been either ordered to give security for good behaviour with reference to section 110 of [2][the Code of Criminal Procedure, 1973] Effect of certain orders passed under Criminal Tribes Act, 1924, etc.

[1] These sections were inserted by section 6 of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

[2] This expression was substituted for the expression "the Code of Criminal Procedure, 1898 (Central Act V of 1898)" by section 7, *ibid.*

*This Act has been repealed by the Criminal Tribes Laws (Repeal) Act, 1952 (Central Act XXIV of 1952).

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(Central Act 2 of 1974)], or convicted of an offence under section 24 of the said Act or of a non-bailable offence under any other law, a notification shall be deemed to have been issued under section 3, sub-section (1), of this Act, declaring him to be subject to all the provisions of this Act ; and this Act shall apply to every such person accordingly.

(2) Every notification issued in respect of any person under section 3 of the Madras Restriction of Habitual Offenders Act, 1943,* and in force at the commencement of this Act, shall be deemed to have been issued under section 3, sub-section (1), of this Act, all references in that notification to the provisions of the said Act and the rules made under it being construed as references to the corresponding provisions of this Act and the rules made under it. Madras Act XXX of 1943.

(3) Any notification or order issued or made under the said Act in respect of any person referred to in sub-section (1) or sub-section (2), and in force at the commencement of this Act, restricting the movements of such person or placing him in a settlement shall be deemed to have been issued or made under this Act.

(4) All settlements established under section 16 of the said Act and existing at the commencement of this Act shall be deemed to have been established under section 8 of this Act.

[1][17–18.]

1 Sections 17 and 18 were repealed by section 2 of, and the First Schedule to, the Tamil Nadu Repealing and Amending Act, 1952 (Tamil Nadu Act XI of 1952).

* This Act has been repealed by section 17 of the Tamil Nadu Restriction of Habitual Offenders Act, 1948 (Tamil Nadu Act VI of 1948).

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[1][THE SCHEDULE.

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243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

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1 This Schedule was substituted for the original Schedule by section 8 of the Tamil Nadu Restriction of Habitual Offenders (Amendment) Act, 1975 (Tamil Nadu Act 55 of 1975).

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[I

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