

Repealed by the West Pakistan Repealing Ordinance, 1970 (W.P. Ordinance XVIII of 1970).
Spent.

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SIND ACT No. XV OF 1952.

[THE SIND PUBLIC ORDER AND DETENTION ACT, 1952.]

[30th September, 1952]

An Act to provide for special measures to deal with persons acting in a manner prejudicial to the maintenance of supplies and services essential for the community, or for the maintenance of public order.

WHEREAS the Governor of Sind has, in pursuance of a proclamation issued by the Governor-General of Pakistan under section 92-A of the Government of India Act, 1935, assumed on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

AND WHEREAS it is expedient to provide for special measures to deal with persons acting in a manner prejudicial to the maintenance of supplies and services essential for the community, or for the maintenance of public order;

NOW, THEREFORE, in exercise of the powers so assumed, the Governor is hereby pleased to enact as follows:—

1. (1) This Act may be called the Sind Public Order and Detention Act, 1952.

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force at once, and shall remain in force for three years from the date of its commencement.

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

(1) "the Code" means the Code of Criminal Procedure, V of 1898.

(2) "document" includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproductions.

(3) "Province" means the Province of Sind.

Short title
extent and
commence-
ment.

Interpreta-
tion.

3. (1) The Provincial Government, if satisfied with respect to any particular person, that with a view to preventing him for acting in any manner prejudicial to the maintenance of supplies and services essential to the community, or for the maintenance of public order, it is necessary so to do, may make an order—

Restrictions on the movements of suspected persons on their detention.

(a) directing such person to remove himself from the Province in such manner, before such time, and by such route, as may be specified in the order ;

(b) directing that he be detained ;

(c) directing that, except in so far as may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Province as may be specified in the order ;

(d) requiring him to reside or remain in such place or within such area in the Province as may be specified in the order, and if he is not already there, to proceed to that place or area within such time as may be specified in the order ;

(e) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times, and to such authority or person, as may be specified in the order ;

(f) requiring him to conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order ;

(g) imposing upon him such restrictions as may be specified in the order in respect of his employment or business ;

(h) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order.

(2) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.

(3) If any person is in any area or place in contravention of an order made under sub-section (1), or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (5) of this section,

he may be removed from such area or place by any police officer or by any person authorised by the Provincial Government in this behalf.

(4) So long as there is in force in respect of any person an order under clause (b) of sub-section (1) directing that he be detained, he shall be liable to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment of offences and breaches of discipline, as the Provincial Government may from time to time specify.

(5) If the Provincial Government has reason to believe that a person in respect of whom an order as aforesaid has been made directing that he be detained, has absconded or is concealing himself so that such order cannot be executed, it may—

(a) make a report in writing to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) 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; and if the said person fails to comply with such direction he shall, 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 of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(6) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (2), his bond shall be forfeited.

(7) An order made under this section shall remain in force for such period as may be specified in the order or, if no period is specified, until revoked by the authority making the order:

Provided that a revocation shall not prevent the making under this section of a fresh order to the same effect as the order revoked.

4. (1) The Provincial Government may, by order, direct that any person, in respect of whom an order has been made under sub-section (1) of section 3, shall—

Power of photographing, etc., persons.

(a) allow himself to be photographed and allow his finger and thumb-impression to be taken by an officer specified in the order ;

(b) furnish specimens of his hand-writing and signature ; and

(c) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this sub-section.

(2) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

5. (1) The Provincial Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

Constitution of Advisory Boards.

(2) Every such Board shall consist of two persons, who are or have been or are qualified to be judges of a High Court and such person shall be appointed by the Provincial Government.

6. In every case where a detention order has been made under clause (b) of sub-section (1) of section 3, the authority making the order shall, within one month of the date of detention, communicate to the person affected thereby the grounds on which the order has been made to enable him to make if he wishes a representation in writing against the order, and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest opportunity of doing so:

Communication of grounds of detention to persons affected by the order.

Provided that nothing in this section shall require the authority to disclose facts which it considers to be against the public interest to disclose.

7. In every case where a detention order has been made under clause (b) of sub-section (1) of section 3, or where an order has been passed under section 9, the authority making the order shall, within three months of the issue of the order, place before the Advisory Board constituted by the Provincial Government under section 5 the grounds on which the order has been made and the representation, if any, made by the person or persons affected by the order.

Reference to Advisory Board affected.

Procedure of
Advisory
Boards.

8. (1) The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Government or from any person concerned or affected, as it may deem necessary, submit its report to the Provincial Government.

(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 passing of the order, and except for that part of the report in which such opinion of the Advisory Board is specified the report shall be confidential.

(3) A person against whom an order under clause (b) of sub-section (1) of section 3 or under section 9 has been made or who is affected by such an order, shall not be required or permitted to attend in person or to appear by any legal representative before the Advisory Board, or to produce any witness before the Advisory Board.

(4) On receipt of the report of the Advisory Board, the Provincial Government shall consider the same and shall pass such order thereon as appears to it to be just and proper :

Provided that the Provincial Government shall review all such orders every six months from the date of the order, unless revoked earlier, and shall, in the case of an order under clause (b) of sub-section (1) of section 3, in form the person affected by the order of the result of the review.

Control of
subversive
associations.

9. (1) If the Provincial Government is satisfied with respect to any association that there is danger that the association may act in a manner or be used for purposes prejudicial to the maintenance of supplies and services essential to the community, or to the maintenance of public order, it may by written or notified order, direct the winding up of the association and thereupon the association shall be disbanded and wound up.

(2) Where in pursuance of sub-section (1) an association has been directed to be wound up, the Provincial Government may, by written order, authorise any officer to take possession of any land or building or any other property or documents belonging to or in the custody of the association, for such period as may be specified in the order.

(3) If the Provincial Government is satisfied that any association is engaged, in succession to a former association disbanded and wound up under sub-section (1), in activities substantially

similar to those carried on by that former association, it may, by written or notified order, direct that this section shall apply to the association so engaged.

(4) No person shall—

(a) manage or assist in managing any association to which this section applies ;

(b) promote or assist in promoting a meeting of any members of such an association, or attend any such meeting in any capacity ;

(c) publish any notice or advertisement relating to any such meeting ;

(d) invite persons to support such an association ;

(e) otherwise in any way assist the operations of such an association.

XLV of 1908. (5) The provisions of sections 17A to 17E of the Criminal Law Amendment Act, 1908 shall apply in relation to an association to which this section applies, as they apply in relation to an unlawful association.

(6) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

XLV of 1860. 10. (1) No Court shall take cognizance of any offence under this Act except on a report in writing by a public servant as defined in section 21 of the Pakistan Penal Code. Cognizance of offences.

(2) Proceedings in respect of an offence under this Act alleged to have been committed by any person may be taken before the appropriate court having jurisdiction in the place where the person is for the time being or where the offence or any part thereof was committed.

(3) Notwithstanding anything contained in the Code an offence under this Act shall be triable by a Magistrate of the first class.

11. Subject to the provisions of the next succeeding section, all offences punishable under this Act shall be tried in accordance with the procedure prescribed for the trial of summons cases by Chapter XX of the Code. Procedure for the trial of offences.

12. Notwithstanding anything contained in the Code all offences punishable under this Act shall be cognizable and non-bailable ; and no person accused or convicted of any offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless :— Offences to be cognizable and non-bailable.

(1) the prosecution has had an opportunity of being heard in respect of the application for such release ; and

(2) where the prosecution opposes the application, the Court is satisfied that there are reasonable grounds of or believing that the accused is not guilty of the offence.

Bar of jurisdiction of Courts.

13. Except as provided in this Act, no order made, direction issued, or proceeding taken under this Act, shall be called in question in any Court, and no suit, prosecution or other legal proceedings shall lie against any person for anything done or in good faith intended to be done under this Act or for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act :

Provided that an appeal shall lie against every conviction and sentence passed under sections 3(5)(b), 3(6) and 4(2) of this Act, in the same manner and subject to the same limitations as against a conviction and sentence passed by a first class magistrate under the Code.

Delegation of powers.

14. The Provincial Government may, by order, direct that any power which by or under any of the provisions of this Act is conferred on it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be also exercised or discharged by any officer subordinate to it subject to the control of the Provincial Government.

Power to make rules

15. The Provincial Government may make rules, not inconsistent with the provisions of this Act, to carry into effect the purpose thereof.

Repeal of Sind Act V of 1952 and validation of action taken thereunder.

16. The Sind Maintenance of Public Safety Act, 1952, (hereinafter referred to as the Act) is hereby repealed but the repeal shall not affect—

Sind Act V of 1952.

(a) anything done, any obligation or liability incurred any order passed or any notification issued and such act, obligation, liability, order or notification shall, in so far it is not inconsistent with the provisions of this Act continue in force and be deemed to have been done, incurred, made or issued, as the case may be, under the provisions of this Act ;

(b) any penalty, punishment, arrest in respect of any contravention of the Act or any investigation or legal proceeding in respect of such obligation, liability, penalty or punishment as aforesaid and any such investigation or legal proceeding

¹ For such directions, see G. N. H. D. (Spl.), No. S. D. 426-H(5)/47, dated 15th October, 1952 and No. S. D. 426-H(5)/47, dated 16th October, 1952, S. G. G., 1952, Pt. I, p. 665.

may be instituted or continued and any such penalty or punishment may be imposed as if this Act had commenced on the 15th day of March 1952.

17. No suit or other legal proceeding shall lie in any court ^{Indemnity.} against any person or authority for or on account of or in respects of anything done, obligation or liability incurred, order passed or proceeding taken whether in exercise or purported exercise of the powers conferred upon such person by the Act or in execution of or in compliance with the orders or sentences passed by any other person or authority in exercise or purported exercise of such powers.