

THE CRIMINAL LAW AMENDMENT ACT, 1908

An Act to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace.

Whereas it is expedient to provide for the more speedy trial of certain offences, and for the prohibitions of associations dangerous to the public peace;

It is hereby enacted as follows.

1. Short title and extent . ? (1) The Act may be called the Indian Criminal Law Amendment Act, 1908.

(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.

(3) It applies to Assam and territories which, immediately before that 1st November, 1956, were comprised in the State of West Bengal, but the State Government of any State may at any time by notification in the official Gazette bring the whole or any part thereof into force into the territories under its administration to which this Act extends.

STATE AMENDMENTS

?Gujarat

?? Same as in Maharashtra.

?[Guj. A.L. (State and Concurrent Subjects) Order, 1960].

?Maharashtra

??? (i)? In sub-section (2), after the words and letter ?comprised in Part B States? insert the words, ?other than the Hyderabad (Saurashtra area of the State of Bombay).

??? (ii)? To sub-section (3), add the following proviso, namely: ?

?? ?Provided that on the date of the commencement of the Criminal Law Amendment (Bombay Amendment and Extension) Act, 1959, the Whole of the Act shall come into force in that part of the State of Bombay in which it was not in force immediately before such date.?

? [Bombay Act 24 of 1959]

PART I

SPECIAL PROCEDURE

[Repealed by the Indian Criminal Law Amendment Repealing Act, 1922 (5 of 1922), Sec. 3]

PART II

UNLAWFUL ASSOCIATION

15. Definitions.

?? In this Part ?

(1) ?association? means any combination or body of persons, whether the same be known by any distinctive name or not; and

(2) ?unlawful association? means an association ?

(a)? which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(b)? which has been declared to be unlawful by the State Government under the powers hereby conferred.

STATE AMENDMENTS

?Andhra Pradesh (Andhra Area)

?? Same as in Tamil Nadu.

?[A.P. Act 9 of 1961]

?Maharashtra

?? After Section 15, 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.?

?[Mah. Act XXXVIII of 1975]

?Tamil Nadu

?? The following clause for sub-section (2) (b) shall be substituted:

?? ?(b) which has been declared by the State Government may, by notification in the official Gazette to be unlawful on the ground (to be specified in the notification) that such association, ?

??? (i)? constitute a danger to the public peace; or

??? (ii)? has interfered or interferes with the maintenance of public order or has such interference for its object;

?? (b) fix a reasonable period for any office bearer or member of the association or any other person interested to make a representation to the State Government in respect of the issue of the notification.

?? (2) Nothing in sub-section (1) shall require the State Government to disclose any facts which it considers to be against the public interest to disclose.

?? *16-A. Reference to Advisory Board and cancellation or modification of notification.* ? (1) After the expiry of the time fixed in the notification for the making of representations in respect of the issue thereof, the State Government shall place before an Advisory Board constituted under sub-section (2) a copy of the notification and also of the representation, if any, received before such expiry.

?? (2) The State Government shall, whenever necessary, constitute one or more Advisory Boards, and each such Board shall consist of three persons who are, or have been, or are qualified to be appointed as Judges of the High Court, and one of them shall be its Chairman. The Chairman and the other members of each Board shall be appointed by the State Government.

?? (3) The Advisory Board shall, after considering the material placed before it and, if necessary, after calling for such further information as it may deem fit from the State Government or from any office-bearer or member of the association concerned or any other person submit its report to the State Government.

?? (4) The Report of the Advisory Board shall specify in a separate part thereof its opinion or that of the majority of the members as to whether or not there was sufficient cause for the issue of the notification in respect of the association concerned.

?? (5) Nothing in this section shall entitle any person to attend in person or to appear Advisory Board, and its report, exceeding the part thereof in which its opinion or that of the majority of its members is specified, shall be confidential.

?? (6) In any case where the Advisory Board or a majority of its members has reported that there is no sufficient cause for the issue of the notification in respect of the association concerned, the State Government shall cancel the notification in respect of such association.?

?[T.N. Act 11 of 1950]

17. Penalties. ? (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or

receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members, thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(3) An offence under sub-section (1) shall be cognizable by the police, and notwithstanding anything contained in the [1][Code of Criminal Procedure, 1898 (5 of 1898)] shall be non-bailable.

STATE AMENDMENTS

?Maharashtra

?? 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.

?? After Section 17 of the principal Act, the following sections shall be inserted, namely: ?

?? ?17A. Power to notification 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 and place which in its or his opinion is 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 place 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 their withdrawal with the least possible inconvenience.

?? (3) A notified place whereof possession taken under sub- section (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. Movable property found in a notified place. ? (1) The Commissioner of Police, District Magistrate or officer taking possession of? notified place shall also take possession of all movable 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, 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 ^[2]Section 87of 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 the 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 the other articles.

?? 17-C. *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.

?? 17-D. *Relinquishment of property.* ? Before a notification under sub-section (1) of Section 17-A 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.

[Maharashtra Act XXXVIII of 1975]

17-A. Power to notify and take possession of places used for the purposes of an unlawful association. ? (1)The State Government may, by notification in the official Gazette, notify any place which in its opinion is used for the purpose 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) The District Magistrate or in a Presidency town the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be, may thereupon take possession of the notified place 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 sub-section (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.

STATE AMENDMENTS

?Andhra Pradesh (Andhra Area)

?? Same as in Tamil Nadu.

?[A.P. Act 9 of 1961]

?Tamil Nadu

?? In Section 17-A, the following sub-sections have been inserted after sub-section (2):

?? (2-A) Any person aggrieved by a notification issued under sub-section (1) in respect of any place, may within thirty days from the date on which such notification is published in the official Gazette, apply to the District Judge of the district in which such place is situated; or of such place is situated in the Presidency town, to the Chief Judge of the Small Cause Court, for a declaration that the place has not been used for the purpose of any unlawful association and if such District Judge or Chief Judge makes such declaration, the State Government shall cancel the notification in respect of the place.

?? (2-B) In disposing of an application under sub-section (2-A), the procedure to be followed shall be procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply; and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.?

? [T.N. Act 11 of 1950]

17-B. Moveable? property found in a notified place. ? (1) The District Magistrate, Commissioner of Police 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 District Magistrate, or in a Presidency town the Commissioner of Police, 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 he considers to be entitled to possession thereof or, if no such person is found shall be disposed of in such manner as the District Magistrate or Commissioner of Police, as the case may be, may direct.

(4) The District Magistrate or Commissioner of Police shall publish, as nearly as may be in the manner provided in ³[3]Section 87 of the Code of Criminal Procedure, 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 District Magistrate or Commissioner of Police, he shall deal with the article concerned in accordance with the provision of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to be District Judge, in the case of a decision by a District Magistrate, or, the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, 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 the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims so far as can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate or Commissioner of Police 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.

STATE AMENDMENT

?Gujarat

?? Delete Section 17-B.

?[Bombay Act 24 of 1959, and Gujarat A.L.O. 1960].

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

STATE AMENDMENT

?Gujarat

?? Delete Section 17-C

?[Bombay Act 24 of 1959 and Guj. A.L.O. 1960].

17-D. The relinquishment of property. ? Before a notification under sub-section (1) of Sec. 17-A 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.

STATE AMENDMENT

?Gujarat

?? Delete Section 17-D

?[Bombay Act 24 of 1959 and Guj. A.L.O. 1960].

17-E. Power to forfeit funds of an unlawful association. ? (1) Where the State Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the State Government may, by order in writing, declare such monies, securities, or credits to be forfeited to Government.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy, such person shall pay or deliver the monies, securities or credits to the order of the State Government:

Provided that in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the State Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section (1), the State Government shall give written notice to the person (if any) in whose custody the monies, securities, or credits are found of its intention to forfeit, and any person aggrieved thereby may, within fifteen days from the issue of such notice, file an application to the District Judge in a district, or to the Chief Judge of the Small Cause Court in a Presidency-town, to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of, and unless the District Judge or Chief Judge of the Small Cause Court has decided that the monies, securities or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims so far as it

can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.

(5) Where the State Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the State Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the State Government. A copy of such order shall be served upon the person to whom it is directed.

(6) The State Government may endorse a copy of an order under sub-section (5) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such persons, or any officer, agent or servant of such person, touching the origin of and dealing in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the ^{iv}[4][Code of Criminal Procedure, 1898 (5 of 1898)] for the service of a summons, or where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (5), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the State Government.

(9) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the State Government refuses or fails to comply with any direction of the State Government in this behalf, the State Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or where under any person obtains a legal right to the payment of money : and the market-value of any security means the value as fixed by any officer or person deputed by the State Government in this behalf.

(11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of the State Government.

STATE AMENDMENT

"Maharashtra

?? In Section 17-E 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.

???????????????????????????????????????????????????????????? [Mah. Act XXXVIII of 1975]

17-F. 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 17-B and 17- E no proceeding purporting to be taken under Sections 17-A, 17-B, 17- C, 17-D or 17-E 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 done 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.

STATE AMENDMENTS

?Andhra Pradesh (Andhra area)

?? Same as that of Tamil Nadu.

?[A.P. Act 9 of 1961]

?Gujarat

?? For Section 17-F, substitute the following:

?? ?17-F. Jurisdiction barred. ? Every declaration of forfeiture made or purposing to be made, under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been forfeited and save as provided in Section 17-E no proceeding purporting to be taken under that section shall be called in question by or in any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under that section.?

?[Guj. A.L.O. 1960]

?Tamil Nadu

?? In Section 17-F of the said Act, for the words, figures and letters ? save as provided in Sections 17-B and 17-E?, substitute the words, figures and letters ?save as provided in Sections 17-A, 17-B and 17-E?.

?[T.N. Act 11 of 1950]

18. Continuance of association. ? An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

THE SCHEDULE. ? [*Repealed by the Indian Criminal Law Amendment Repealing Act, 1922 (5 of 1922), Sec. 3*]

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