

APPENDIX

THE PRISONERS ACT, 1900

[Act No. 3 of 1900 *(2nd February, 1900)]

(In its application to the State of Maharashtra)

An Act to consolidate the law relating to Prisoners confined by order of a Court.

Whereas it is expedient to consolidate the law relating to prisoners confined by order of a Court; it is hereby enacted as follows :—

PART I

PRELIMINARY

1. (1) This Act may be called the Prisoners Act, 1900; †(2) It extends to the whole of India except ‡ (the territories which, immediately before the 1st November, 1956, were comprised in Part B State)§ XXXX ¶ (Other than the Hyderabad and the Saurashtra areas of the State of Bombay).

Short title and extent.

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

Definitions.

(a) “Court” includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) “prison” includes any place which has been declared by the State Government, by General or special order, to be a subsidiary jail.

** (c) “States” means the territories to which this Act extends.

* The Act has been amended in its application to C. P. and Berar by the C. P. and Berar Prisoners (Amendment) Act, 1939 (C. P. and Berar 4 of 1939).

† Subs. by the A. O. 1950 for sub-section (2).

‡ Subs. by the Adaptation of Laws (No. 2) Order, 1956 for “Part B State “. § The word “ and “ and sub-section (3) rep. by Act 10 of 1914, s. 3 and Sch. II. ¶ Ins. by Bombay Act XV of 1959. S.4 and

Maharashtra A. L. O. (Amendment), 1961. ** Subs. by the Adaptation of Laws (No. 2) Order, 1956 for the former clause (c) which had been ins. by the A. O. 1950.

PART II

GENERAL

Officers in prisons
to detain persons
duly committed
person has been committed or until such person is discharged or removed
of law.

3. The Officer in-charge of a prison shall receive and detain all persons charge of
duly committed to his custody, under this Act or otherwise, by any Court,
according to the exigency of any writ, warrant or order by which such to their custody.
in due course

(Part II—General Part III—Prisoners in the Presidency towns)

4. The officer in-charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART III

PRISONERS IN *(GREATER BOMBAY)

Warrants etc. directed to
Police Officers.

5. Every writ of warrant for the arrest of any person issued by the
High Court in the exercise of the ordinary, extra-ordinary or other criminal

be

§ Subs. for “the Court” *ibid* s. 4, 5.

9. Where any person is committed by the High Court ¶ (the Bombay City Civil Court of the Court of Session for Greater Bombay whether persons committed by. in execution of a decree or for contempt of Court or for any other cause. Delivery of

** (The High Court, City Court or Sessions Court as the case may be) High Court,
 (City Court or shall cause him to be delivered to the Superintendent, together with warrant
 Sessions Court) in execution of a
 of commitment. decree or for
 contempt.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep	Delivery of persons
sentenced by the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.	Presidency Magistrates.

* Subs. for “ returned.....when executed “ ibid.

† Subs for “ Criminal Jurisdiction” *ibid* 5, 4, 5, 6.

‡ Subs for “ the Court “ *ibid* Sections 4, 5.

‡ The words “ or penal servitude “ omitted by Act 17 of 1949, s. 4.¶ Inserted by Bombay Act, VII of 1949 Sections 3, 4, 5, 6.

** Subs. for words “ The Court “ by Bombay Act VII of 1949, s. 6.†† Subs. by Act 4 of 1908, s. 13, for “ Justice of the Peace, or Coroner “ .‡‡ Inserted by *ibid* s. 6 and 7.

§§ Subs. for the words “ The Court “ by *ibid* s. 7.

Custody pending High 12. The High Court may, pending the hearing, under Section 350 of hearing by

Court under the Code of Civil Procedure, * of any application for a declaration of
Section 350 of insolvency, cause the judgment debtor to be delivered to the Superintendent, the
Code of Civil subject to the provisions as to release on security of †Section 349 of the
Procedure of said Code, and the Superintendent shall detain the said judgment-debtor
application for insolvency. in safe custody until he is re-delivered to an officer of the High Court
for the purpose of being taken before it in pursuance of its order, or until
he is released in due course of law.

Delivery of arrested 13. (1) Every person arrested in pursuance of a writ, warrant or order persons
in pursuance of the High Court in the exercise of its original civil jurisdiction or in
warrant of High Court established in †(Greater Court
or Civil Bombay) under any law or enactment for the time being in force, or in Court in
†Greater Court in
Bombay). pursuance of a warrant issued under Section 5, shall be brought without
delay before the Court by which, or by a Judge of which the writ, warrant
or order was issued, awarded or made, or before a Judge thereof, if the
said Court or a Judge thereof, is then sitting for the exercise of original
jurisdiction.

(Part III.—Prisoners in the Presidency-towns. Part IV.—
Prisoners outside the Presidency-towns.)

(2) If the said Court, or a Judge thereof, is not then sitting for the exercise of
original jurisdiction, such person arrested as aforesaid shall, unless a Judge of
the said Court otherwise directs, be delivered to the Superintendent for
intermediate custody, and shall be brought before the said Court, or a Judge
thereof, at the next sitting of the said court, or of a Judge thereof, for the exercise
of original jurisdiction in order that such person may be dealt with according to
law; and the said Court of Judge shall have power to make or award all
necessary orders or warrants for that purpose.

PART IV

PRISONERS OUTSIDE ‡(GREATER BOMBAY)

References in this part to prisons, etc. to as referring also to Reformatory Schools. 14. In this Part all references to prisons or to imprisonment or
confinement shall be construed as referring also to Reformatory School be construed
or to detention therein.

* This reference should be construed as applying to the Provincial Insolvency Act, 1920 (5 of 1920), see s. 83
(2) of that Act.

† Subs. for the words “ Presidency Towns “ s. 8.

‡ Subs. for the words “ The Presidency Towns “ by Bombay Act VII of 1949 s. 9 and 10.

*15. (1) Officers in-charge of prisons outside †(Greater Bombay) may Power for
officers in charge give effect to any sentence or order or warrant for the detention of any of
prisons to give effect to

person passed or issued.
certain Courts.

sentences of

(a) by any Court or tribunal acting, whether within or without the States under the general or special authority of the Central Government, or of any State Government, or of the Government of Burma or by any Court or tribunal, which was before the commencement of the Constitution acting under the general or special authority of His Majesty, or of the Crown Representative; or

(b) before the 26th January, 1950, by any Court or tribunal in any Indian State—

(1) if the presiding Judge, or if the Court or tribunal consisted of two or more Judges, at least one of the Judges, was an officer of the Crown authorised to sit as such Judge by the State or the Ruler thereof or by the Central Government or the Crown Representative; and (iii) If the reception, detention or imprisonment in any province of India of persons sentenced by any such.

(Part IV—Prisoners outside the Presidency-towns.)

Court or tribunal had been authorised by general or special order by the State Government † (†) Provided that effect shall not be given to any sentence or order or warrant for detention passed or issued by any Court or tribunal in Burma without the previous sanction of the State Government concerned.

(2) Where a Court or tribunal of such an Indian State as aforesaid had passed a sentence which could not have been executed without the concurrence of an officer of the Crown, and such sentence had been considered on the merits and confirmed by any such officer specially authorised in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Central Government or the Crown Representative.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in Section 15 shall be sufficient authority for any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Warrant of
officer of such
Court to be holding
sufficient
authority.

* Subs. by the A. O. 1950.

† The word “ or “ Cl. (c) omitted by the A. O. (No. 2). 1956.

Procedure where
charge
of prison doubts
the legality of
thereto pass the
execution under
this part.

17. (1) Where an officer in-charge of a prison doubts the legality of officer in-charge a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed warrant sent to him for the sentence and issue the warrant or order, he shall refer the matter to the State Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-Section (1) the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

Execution in the
capital sentences
not ordinarily
there.

18. (1) Where a *(Court established by the authority of the Central States of certain Government) exercising, in or with respect to territory beyond the limits of the States, Jurisdiction which †(the †Central Government) has in such executable territory,—

(a) has sentenced any person to death, and

*(Part IV—Prisoners outside the Presidency towns. Part V—
Persons under sentence of penal servitude.*

Part VI—Removal of Prisoners)

(b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a descent and humane manner, be executed in the States has issued its warrant for the execution of such sentence to the officer in-charge of a prison in the States.

Such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of Section 381 of the Code of Criminal Procedure, 1898.

(2) The Prisons of which the officers in-charge are to execute sentences under any such warrants as aforesaid §(shall in each State be such as the State Government) may be general or special order, direct.

* Subs. by the A. O. 19-18 for "British Court".

† Subs. by the A. O. 1937 for the G.-G.-in-Council".

‡ Subs. by the A. O. 1948 for "Crown".

§ Subs. by the A. O. 1937 for "shall be such as the G. G. in C. or a L. G. authorised by the G.-G.-in-C. in this behalf".

PART V

PERSONS UNDER SENTENCE OF PENAL SERVITUDE

19-27 Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (XVII of 1949) s. 4.

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PART VI

REMOVAL OF PRISONERS

28. In this Part, all references to prisons or to imprisonment or this part to confinement shall be construed as referring also to Reformatory Schools or to detention therein.
referring-also to

References in
prisons, etc. to
be construed as
reformatory
Schools.

†29. (1) The ‡State Government) may, by general or special order, provide for the removal of any prisoner confined in a prison.

Removal of
prisoners.

(a) under sentence of death, or

(b) under or in lieu of, a sentence of imprisonment or transportation, or

(c) in default of payment of a fine, or

(d) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in §(the State¶ XXX).

(2) ** [Subject to the orders, and under the control, of the State Government, the Inspector General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the State to any other prison in the State††X X X].

30. (1) Where it appears to the State Government that any person detained or imprisoned under any order or sentence of any Court is

Lunatic prisoners
how to be dealt
with.

of unsound mind order his removal to a lunatic asylum or other place of safe custody within the State, there to be kept and treated as the

* Sub-Section (3) and the proviso thereto omitted by the A. O. 1950.

† Subs. by Act I to 1903, s. 3 and Sch. II, for the original Section.

‡ Subs. by the A. O. 1937 for “G.-G.-in-C.”

§ Subs. by the A. O. 1937 for “British India or to any prison in Berar “The words” or to any prison in Berar “ had been added by Act XVII of 1923, s. 2.

¶ The words “or, with the consent of the State Government concerned, to any prison in any other State “ omitted by Act XXIX of 1950, s. 4.

** Subs. by the A. O. 1937 for “The L. G., and (subject to its orders and under its control)”.

†† The words “or in the case of a prisoner so confined in a prison in the C. P., for his removal to any other prison in the Province or to any prison in Berar “, which had been added by Act XVII of 1923, s. 2 were omitted by the A. O. 1937.

State Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the State Government that the prisoner has become of sound mind, the State Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the State, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(Part VI—Removal of prisoners.

Part VII—Persons under sentence of transportation.)

(3) The provisions of Section 9 of the *Lunatic Asylums Act, 1858, shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

†[(4) In any case in which the State Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the State, the State Government may order his removal to any such asylum or place within any other State or within ‡any part of India to which this Act does not extend) by agreement with the State Government of such other State § XXX; and the provisions of this Section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

31. (Removal of prisoners from territories under one Local Government to territories under another). Rep. by the Amending Act, 1903 (1 of 1903), s. 4 and Sch. III.

* See now the Indian Lunacy Act, 1912 (4 of 1920).

† Subs. by Act XXXVIII of 1920, s. 2 and schedule I, for the original sub-section (4).‡ Subs. by the Adaptation of Laws (No. 2) Order, 1956 for “any Part of British State”.§ The words “or with such State or the Ruler thereof, as the case may be omitted”, *ibid*.

PART VII

PERSONS UNDER SENTENCE OF TRANSPORTATION

32. *(1) The †(State Government) may appoint places within ‡(the places for State) to which persons under sentence of transportation shall be sent; and the †(State Government), shall give orders for the removal of such to the places so appointed, except when sentence of transportation

Appointment of
confinement of
prisons under persons

transportation is
 sentence of
 passed on a person already undergoing transportation under a sentence
 and removal
 previously passed for another offence.
 thereto.

§[(2) In any case in which the State Government is competent under sub-
 Section (1) to appoint places within the States and to order the removal thereto
 of persons under sentence of transportation, the State Government may appoint
 such places in any other State, by agreement with the State Government of that
 State and may by like agreement give orders or duly authorise some officer to
 give orders for the removal thereto of such persons].

PART VIII

DISCHARGE OF PRISONERS

33. ¶ (Any High Court) may, in any case in which it has recommended Release, on
 recognizance, by to Her Majesty the granting of a free pardon to any
 prisoner, permit him order of High
 Court, of to be at liberty on his own recognizance. Prisoner
 recommended or
 for pardon. PART IX

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE

34-52. Rep. by the Prisoners (Attendance in Courts) Act, 1955 (XXXII of 1955), s. 10.

53. (Repeals) Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

(The first Schedule.) Rep. by the Prisoners (Attendance in Courts) Act, 1955 (XXXII of 1955), s. 10.

(The second schedule.) Rep. by s. 10, *ibid*.

(The Third schedule.) Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

* S. 32 was re-numbered as sub-Section (1) of that Section by Act XXXVIII of 1920 s. 2 and Sch. I.

† Subs. by Act XXXVIII of 1920, s. 2 and Sch. I, Part I for G.-G.-in-C.

‡ Subs. by s. 2 and Sch. I, Part I, *ibid*, for "British India"

§ Ins. by Act XXXVIII of 1920, s. 2 and Sch. I.

¶ Subs. by the Adaptation of Laws (No. 2) Order, 1956 for "Any Court which is a High Court for a Part A State".