

TAMIL NADU RESTRICTION OF HABITUAL OFFENDERS ACT, 1948

T.N. Act Restrict Habitual offenders 1055 THB TAMIL NADU RESTRICTION OF HABITUAL OFFENDERS ACT, 1948. TABLE OF CONTENTS. SECTIONS. PRELIMINARY • Short title, extent and commencement. 1 Definitions. 2 NOTIFICATION OF OFFENDERS AND RESTRICTIONS 3 4 5 6 7 8 9 10 OF THEIR MOVEMENTS. Power of Government to notify offenders. Delegation of powers to District Magistrate. Notified offenders to intimate residence and change of residence. Power to restrict movements of notified offenders. Power to cancel or alter such restrictions. SETTLEMENTS. Power to place notified offenders in settlements. Power to discharge or transfer persons from settlements. Power to subject *voluntary residents in settlements to restrictions and penalties 1056 Restriction of Habitual Offenders SECTIONS. [1948 : T.N. Act VI 11 12 13 14 15 RULES. Power to make rules. PENALTIES AND PROCEDURE. Penalties. Arrest of notified offenders. Rules for the removal of prisoners to apply in certain cases. MISCELLANEOUS. Bar of jurisdiction. of action taken in good faith and recommend Scheduled passed orders Act, [1924, etc. The Offenders NADU] ACT ND- vr 1948*. [THE TAMIL NADU OFFENDERS ACT, 1948 - (Received the assent of the Governor-General the 24th April 1948; first published in the First Supplement to the Extraordinary, on the 24th April 1948.) A Act for Imposing certain on habitual offenders in the of Tamil Nadu. WHEREAS it is expedient to impose restrictions on habitual offenders in the of Tamil Nadu, It is hereby enacted as follows : PRELIMINARY. 1. (1) This Act may be called Restriction of Habitual Offenders Act, (2) It extends to the whole of Tamil Nadu, (3) It shall come into force April 1948. These words were substituted for "Tamil Nadu" Short title, extent and commencement- 29th day of April 1948. by the Tamil Nadu Adaptation of Laws Order. by the Tamil Nadu Adaptation of Laws (Second Order, 1969. 2 Purpose and Objects and Sr. George Gazette, dated the 5th March 1948, Part This Act was extended to the of by section 3 of, and the First Schedule to, States (Laws) Act, 1949 (Tamil Nadu Act This Act was extended to the of the Tirunelveli District by the First Schedule to, Tamil Nadu Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960) law in force in that territory. This extension was substituted of Madras " Tamil Nadu 1970, which was amended by the Tamil Nadu Amendment Order, 1970. In 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 Government of India; (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 set aside in appeal or revision, on not less than three 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 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 ; This word was substituted for the word " Provincial " by the Adaptation Order of 1950. This expression was substituted for the expression " for or against of the offences under the Indian Penal Code (Central Act XLV of 1861) " by the section 2(1) (a) of the Habitual Offenders (Amendment) Act, 1975 (Central Act 180 of 1975). This was substituted for the expression " the Code 1898 (Central Act V of 1898) " section 1948: T.N. Act (VI) Habitual Offender' [(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, Power of if they are satisfied that any person is a habitual offender to notify 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. (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 in 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). This section was substituted for the original section 3 by section 125-14--67A Deletion of powers to District Magistrate. Notified offenders to intimate residence and change of residence. Power to restrict movements of notified offenders. Habitual [1948: T.N. Act VI] Restriction of Habitual Offenders 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

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

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.

6. (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. 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). 1948 : T.N. Act VI] Restriction of Habitual Offenders (2) Before making any such declaration, the Government shall consider— (i) the nature of the offences, 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

7. The Government may, by notification, cancel or alter 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 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

8. The Government may establish industrial, agricultural, or reformatory settlements and may order any notified offender to be placed in any such settlement, offenders in settlements , 9. The Government or, any officer authorized by them may at any time by order direct any notified offender or persons to be placed in or transferred to any such settlement. 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. 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 ; 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 or 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 ; (h) the periodical review of the cases of all persons who have been placed in any settlement under this Act. 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 hereafter 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 penalties. or the provisions of this Act or any notification, rule or order made thereunder shall be punishable— (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 ; 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). (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

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. He shall be detained for 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. On production of the offender 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. (Or the rules being in force governing the removal of prisoners shall apply to persons ordered to be placed in a settlement under section 8 or to be removed under section 13. • Provided that no order of the Government or the Inspector General of Prisons, shall be necessary for the removal of such persons. 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 1936 (1948 : T.N. Act VI) Restriction of Habitual Offenders. 1065 15. No Court shall question the validity of any order of notification (other than one under section 3), or jurisdiction, order, issued under this Act. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything done or intended to be done in pursuance of this Act or any rule made thereunder. (2) No suit or 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. (3) The Government may by notification, amend or add to the Schedule. (4) 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 16. (5) [In respect of every person who stood under the effect of the Criminal Procedure Code of 1924* (here, orders in this section referred to as the said Act) passed under at the commencement of this Act and who, within a period of five years immediately preceding such

Tribes Act' 1924, et C. coinmencement, had been either ordered to give :security for good behaviour with reference to section I iO of 21 the Code of Crimiqual Procedure, 1973 J i These sections were ilberted by section 6 of the Tamil Nadu Reslriction of Habitual Offenders (Amfndment) 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 I, • Tbis Act has been repealed by the Crüninal Tribes Laws (Repel) Act, 1952 (Central Act XXIV of 1952). 1066 Restriction of Habitual [1948: T.N. Act VI Offenders (Central Act 2 of 1974)], or convicted -of an offence under section 24 of the said Act or of a non-bailab}e offence under any other law, a notification shall deemed to have been issued under section 3, sub-sec- tion (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 Madms Habitval Offenders Act, J 943, * and in force at the Act XXX commencement of this Act, shall be deemed to have of 1943. 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 pto- visions of this Act and the rules made under it. (3) Any notification or order issved 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 settle- ment shall be deemed to have been issued or made nder this Act. (4) All s,ztlements establiished v nder section 16 of the said Act and ex.isting at the commencement of this Act shall be deemed to have been estab!ished under section 8 of this Act. 1 Sections 17 18 were repealed by. section 2 of, the First Schedule to, the TamilNadu Repealing and Amending Act, 1932% (Tamil ActX1pf 1952). • rhig by section 17 of the T N u triciioa o t gabitul0Renders Act, 1948 4 uals 1948; Réstriction OfH Offenders 1067 I[THE SCHEDULE. [See section 2 (7-A).] .1 1 Offences under the Indian Penal Code. CHAPTER SECTIONS: 231. 232. 233. 234. 235. 239, 240. 242

243. Counterfeiting c0 n.Counterfeiting Indian coin. Making or selling instrument for counter• feiting coin. Making or selling instrument for conote;• feiting Indian coin Possession of instrument or material for the purpose of using the same for counter- feiting coin. Delivery of coin possessed with knowledge that it is counterfeit. Delivery of Indian cojn possessed with know- ledge that it is counterfeit. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof. Possession of Indian, coin b.y person who knew it to be counterfeit when he became possessed thereof. 1 This Scirdule• was substituted for the original Schedule by *tion, 8 of Tamil, Nadu Res\$triction of Habitual Offenders Nadu Act 55 of 1975). Restrictiân bfHabitua!b [1948 : T.N. Act VI Offenders CHAPTER XVI. SECTIONS: 304. 307. 308. 311. 324. 325. 326. 327. 328. 329. 332. 333

347. Culpable homicide not amounting to murder.Attempt to murder, Attempt to commit culpable homicide. Being a thug. Voluntarily causing hurt by dangerous wea- pons or means. Voluntarily causing grievous hurt. Voluntarily causing grievous hurt by dangerous weapons or means. Voluntarily causing hurt to extort property, or to constrain to an illegal act. Causing hurt by means of poison, etc., with intent to commit an offence. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act. Voluntarily causing hurt to deter public servant from his duty, Voluntarily causing grievous h urt t.o deter public servant from his duty. Wrongful confinement to extort property, or constrain to illegal act. 363A. Kidnapping or maiming a minor for pur- poses of begging, 365. Kidnapping or abducting with intent secretly and wrongfully to confine person. 366A, Procuration of minor girl. 366B, Importation of girl from foreign country

368. Wrongfully concealing or keeping in con- finement kidnapped or abducted person.or abducting child under tcn to steal from its person, 1948: 'f.N. Restriction of abj:ual Offend' "8 CHAPTER XVII, ;ECTIONS : 379. Theft. 380. 382. 384. 385. 386. 387, 392. 393. 394. 395, 397. 398. 399. 401. 402. 414. 451, Theft in dwelling house, etc. Theft after preparation made for causing death, hurt or restraint in order to the com- mitting of the theft. Extortion. Putting person in fear of injury in order to commit extortion. Extortion by putting a person in fear of death or grievous hurt. Putting person in fear of death or of grievous hurt, in order to commit extortion. Robbery. Attempt to commit robbery. Voluntarily causing hurt in committ ing robbery, Dacoity. Robbery or dacoity, with attempt to cause death or grievous hurl. Attempt to commit robbery or dacoity when armed with deadly weapon. Making preparation to commit dacoity. Belonging to gang of dacoits, Belonging to gang of thieves. Assembling for purpose of committing dacoity, Dishonestly receiving stolen property. Assisting in concealment of stolen property,

House-trespass in order to commit offence punishable with imprisonment. T.N. Act Offenders SECTIONS : 452. House-trespass after preparation- for hurt, assault or wrongful restraint

453. Lurking house-trespass or house-breaking

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint

456. Lurking house-trespass or house-breaking by night 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking

40. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them. Offence under the Suppression in Women and Girls Living on the earnings of Immoral Traffic Act, 1956. prostitution.]

