

WEST BENGAL OFFENDERS (RELEASE ON ADMONITION AND PROBATION) ACT, 1954

1898. Act -or 1860.: wesf Bengal Act xxxvlll of. 1954 THE WEST "BENGAL, OFFENDERS (RELEASE ON ADMONITION AND PROBATION) ACT, 1954. EPäsSed by the West Benbat Legislature.] t Assén\$- of the •President- was first published in the Calcutta Gazette, Of the 25th - Ncfrémber, 1954.] An Act to provide- for; ithe release of offenders on admonition or probation, W H.EREAS is. • expedient to provide for the release of offenders - -on. âdmonition or probation and for mabt ers connected thereivith•; •It is hereby enadted in the Fifth* year o! • the Republic of India,• by the Legislature of West Bengal, as follows : (1) This Act may be •called the West Bengal Offenders (Release oil Admonition and' Probation) • Act, 1954. It exténds to the whole of W eSt Benual. (3) This section shall come at •force at once; the remom- ing provisions shall- come .such areas and on suchldatés as the Stâ.te Government may, by in Gazette, appoint. and different' date's may be appointed för 'different provisions fid for different areas; • this Act, unless -there. is anything repugnant in the •subject Otr : context,— 'fthé• CodéS' -14e_aus. lhé• Code •ofrCriminal. Pröcedure, 1898; - (b) "'prescribed" •means prescribed by rules-' made: •under this, Act j supervision •order" means : a ordel passed.,under •sub-section of seötïön 4, whethex. v.,ariédi under section 6 ; .expressions used in• this. Act but' not otherwise defined shall have the same meaning as in the code: - Any Cotil't which convicts . an offender of an 'ce i.incTér. setifi:ön -379 or- section 380 of the Indian Penal Code 01' any anj other •seöfioii of that Codé . under aiyy other the ,time being- ' in,,. {orpe punishable Witn imprisonihént; -för not moi•e.- than. two- years, . - gna.y, if ' previous- conviction is. prov.ed • against' him, and if it is of opinion• that having r.egaid to his: aote, -character, -antecedents, or physical. or menta.l• conditipn and* {o Ghe trivial nature of the offence or •to the circumstances untle•c the offence wak committed, •is -•éxpédient so to .iel;ease him after.. due admonition. i»stead of sentencing him annpesr•g ; . English, 3d; 9. c-A.&€ 1/3.2156 Short titlei extent and commence- menb. Interpreta; tiOn. Power of Court to release certain offendei•s after admoni. tion. Power of •Co,urt to order certain offendeæs sentenceÅ to terms of imprison- ment.of not more than six months to be released on proba- tion. 2 The TV est Bengal Offenders (Release on Admonition and Piobâtion) Act, 1954. twest Ben. Act (Section 4.) (1) - Any" Which" Sentences' •an offender to 4, imprisonment (not being imprisonment •in default of payment of fine) •for a term not exceeding • éix• 'an offence not punislmlable with death or transportation for life, may, aoa.inst him,.• conviction-' is• proved if nö Previous- ahcl if it iS of • öpini0]ã that havino• regard to his age,a. character, antepedents, or physical 0! mental condition: 01' to the extenuating ciré.m-ustanees' under irlyich the .ofence order him to be •was committed, it is espe'dient So to do, released on luis enteping into a bond with •at least one surety to feep •the peacg-:âi4i be of gdoa behaviour, •remain under the supervision of Vro)3atiön Offc&r--as requ?ired under this Act, to observe the conditions imposed by the' tsupe±vision order and'..to the provisions of tsection 6.: • Provided, that. the •Court shall not direct the release of an offeLder unless satisfied b that the offender. or the surety (where there is only one surety) or one of the sureties (wlere there are more than one suretj), has a•fixed place •of residence and regular- occupa'Sicm in •the area within which the Court exercises. jurisdiction in whicl) the offender is likely to life during the period referred to in •subcs.ecti011 (2) fpr which the bond is to remain in effect. (2) The period for which the bbnd is-to remain-kin- effect • sh•åll be stated @ereill; •such period shall 110t be efess than one year nor more than three years as the court may direct ; and, upon the expiry. .of such period, the sentence shall, sub- ject to any order passed under seötïön 7, be deemed to haf.e been executed and the supervision *order shall stand cancelled. (3) passing an order under sub-section (1), the Court may take into consideiâtion a' report':from a Probation Offcell for th'e• area •svithin ite jurisdiction•. (4) Whenever an cyder un•dei;• sub-sectipn (1) is passed by a Court, it shall, in addition, pass å supervision order cli:recting thazt •the offender shall under the super- vision of a •Probati01t Officer named in during the period for which bond is to remain in effect and -may in such supervision ordex• impose such conditions ,as---it- deems necessary -for. thé •due supervision of *the (5) Such conditions ma•y be With fespécf to .TeSidence, abstention. from intoxicants or suq]r öth•ÉT matters as {he Court deems necessary. (6) A Court which passes ai order sub-géctïön (1), shall funÅsh forthwith one copy each-öftthe superviöion order .free of charge-to -the Prqbatïon• Officer.gcncel'ned, the offender and the surety or sureties. The •West Bengal Offenders (Release on Adnwnition and- Probation) Act, 1954. (Sections 5,. 6)

35i A Court Ordering' the release of an offender under section 3 or section 4, may, •if it thinks fit, make at the same time, further order directing him •to pay— (a) such compensation as the Court thinks reasonable for loss or injury caused- to •any person by the offence (b) where he is so released after having been •convicted •of any offence which includes theft, criminal misappropriation, criminal breach of trust, cheating-, or of having dishonestly received . QI retained, or oi he-ving voluntarily assisted in disposing of,- stolen property knowing ov having to believe the same to be stolenj—such compensation as it thinks reasonable' to any bona fide purchaser of such property: •for the loss of the same if such property is restored to the possession of the person ; (c) such costs'] of: proceedings as the Court thinks reasonable. (2) If the offendéi" against whom an order is made under sub-section ('1) is, or appears to the. Court to be, under the age of- years and if it appears to the Court \$hat the parent -._or .glæard,ian of the coffender has contributed by hisaeglect or .lin anj.. other way to the commission of the offence, the Court order the payment of sudh compensation or cosf•by such i)ar.ent or guardian; but no such order shall be made Without giving. the parent or guai•dian an opportunity of • being heard. (3) The paient 'or. guardian may aipeal against any order . -Imade. under sub-sectiãli•e A Civil • Court trying any suit ariëing out of the same matter for which the Offender is prosecuted,- •shall take into account any sum paid 01.' recovered as compensation under sub-section (1) in awarding damages.. (5). The amount ordered to be paid under •sub-section (1) may be as a fine in accordance with the provisions of sections 386 and 387 of the Code

6. A Court' which passes an order under section 4 may at any time while.—th9 supervision :brder is in. force, on suff- cient - cause being shown-6y* .Off6er, or. its own motion wheié it•. deems . proper, make. any variation in the conditions • imposed in tÄe supervision ordéi• : Provided . that . no such vaiiation shall' be made giving the offender • and the, the sureties in the bond an opportunity of being heard : Provided further, that it any • surety Ire-fuses to consent to , such variation, •the. Court may require the off,éndér to provide a' new su-reta in place of the' sureti who so refuses; and upön the failure, of th offender to do so, -the Court may order the sentence to; 'bet executed. Power. of Court to order offender released on admonition or proba- tion or hiä parent or guardian to pay compensa- tion and costs. Variation of condi- tions of probation. The Wist •Ben;gQi. ÖjendÖs (-netear;e Öñ Ad,,niopitbn • tã%'d' PFobatéön•) Act} 1954. (Section,' 7—9:.) (1) 5 ordef'hmder sectiön 4 Prövigion in Of offepder••: _ fyi.liüg öbBORve• conditions of •bondi . Provisions to suretieg,•. Probåtiön . Ömcers., has..iëaßon to . believe- •the. Pfobation OffOev on •informaÆion•• that;othe• offender • has obser.yé .t!he, bond) it.mây .issue -a warrant for his. al.res.t., or: may,,tif it thi.lik* .ât, issue a- sum1310ns him änd• Nhis• Surety slireliös, requirinigs them to attend before •time as"maj (2) When the zbefovu• the. Court under arrest •or the sümmons, the - : may ei\$her to :custodj •until the Oase ig .cöncluded .or -admit. likim etö.:bail',. or •without •sureties,. to appear.. .on it fi*•. for aftei• casa,- ..thex- douf.tiié" .Satisäed that the offender has o.byerve,; any: .öf- .t•hd•.• cönditions of the bond, •it may I(a): •ordér the (b) whéré •thé failure•.-is *for the : Without. 'in..\$pr.ce. of the 'bond, impose •up.onLI-h•im a penil'ty* npt. exceeding. fifty rüpees. If .thé of. (3) is •not -time out_ör• 'withiäl •fuzr.thér ag; .måyi .b'ö the, Court shall •brdei• .the •Thö • 126}: 126-Ä,' •406-A, 514, 5i4-A•, 514-B • and 515 of • % •t11&Q'-Cöde; - may be, a;vplyi in: the of. 1204ds .:atnd offered •.ün'dei. this Act.n . (1) •A •Aot- (1.0). .â:ierson •appointed •-to\$be a, Pyroba&iöi• OficZB *by the State or iecog4ised r.äs- •such.. Phe State Govérliüen,t; 'Or - (b) inr any case, ;any •in uthe opinion: of - She• Cpuft,. ié as a Pio%\$ign •Offcer %QfC the éäßé. A whiOh passes- •sectionr4 District Magistrate of Ghe- •district: I-within: -for .tye time -being resides, -may •âti. any time .appöin-± . another Probation .Officer in the *Place the person.. a• SuperVi8ion_ order. thé .purppées: : this •section .the of Calg.tit.tâ sh@ll.l.bé deemed •-to': be a- district and . the- Chief Presidency •Miågistii#es Calcutta,. •shall be deemedh . to:-- b"ö" b the: District • Magistrate of thai • Th;e W;es\$ Bengal; Qffenuect?. (Rdease . on .Ad?nonition 1954. -xxxviii1F0f (Sections 10—13.) 5 .10. A Probation Officer shall, subject to such rules as may be - pre-scribed, ' (1) inquire, if •called upon by a Court, int6 the circum- -stances or home surroundings of any offender with a *View to assist the Court in determining the most. suitable-•method of dealing' with him ; (2) supervise persons placed -under . his supervision aid; when necessary, endeavour to find them suitable emplåyment ; (3) advise, assist and befriend, in such cases and in säch -manner as may be prescribed, persons who have been released under section 4; and (4) perform such other duties ås may be required

11. An order under this Act may be made, varied, set aside, or substituted by a sentence; by an Appellate Court, or by the High Court when exercising its power of revision. 12. (1) , The State Government may make rules for carrying out the purposes of this Act. (2) -In particular and without

prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely : (a) (b) (c) (d) matters required to be prescribed under this Act ; the manner of appointment and selection of Probation Officers, the terms and conditions of their service and the area within which they are to exercise jurisdiction ; the manner in which Probation Officers shall carry out their duties under this Act and the submission of reports by them ; . the remuneration and expenses to be paid to Probation Officers ; the grant of subsidy to any society or organization which provides persons who are recognised by the State Government as Probation Officers under this Act ; (3) All rules made under this section shall be subject to the condition of previous publication in the Official Gazette. 13, Nothing in this Act shall affect the provisions of section 31 of the Reformatory Schools Act, 1897, or the VITI of Bengal Children Act, 1922, or the Bengal Borstal Schools Act, 1928

1897. Ben. Act 11 of 1922. Ben. Act 1 of 1928. Duties of Probation Officers. Powers of Appellate Courts and the High Court. Power to make rules, Savings, 6 The West Bengal Offenders (Release on Admonition - Aid* Probation): Act, 1954. Ben. Act xxxviii of 1954.] 14, 15.) 14. Section 562 of the Code shall cease to apply to Section 562 of the Code in areas in which this Act or any provisions thereof are brought into force. 15. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law. 'ÖthZFf•n W•BGP.54/5.7702A.5M

