

# MAHARASHTRA PREVENTIVE DETENTION ACT, 1970

[18 of 1970]<sup>1</sup>

[11th April, 1970]

**An Act to provide for preventive detention in certain cases and for matters connected therewith.**

WHEREAS, it is expedient to provide for preventive detention in certain cases in the State of Maharashtra and for matters connected therewith; It is hereby enacted in the Twenty-first Year of the Republic of India as follows:

**1. Short title, extent and commencement and duration :-** (1) This Act may be called the Maharashtra Preventive Detention Act, 1970 .

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 31st day of December 1969.

(4) This Act shall remain in force up to and inclusive of the 31st day of December 1974 and shall then expire.

(5) Upon the expiry of this Act, Section 7 of the Bombay General Clauses Act, 1904, shall apply as if this Act had then been repealed by a Maharashtra Act.

**2. Definition :-** In this Act, unless the context otherwise requires, "detention order" means an order made under Section 3 .

**3. Power to make orders detaining certain persons :-** (1) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to-

(i) the security of the State or the maintenance of public order, or

(ii) the maintenance of supplies and services essential to the life of the community, it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely:-

(a) District Magistrates,

(b) Additional District Magistrates specially empowered in this behalf by the State Government,

(c) Commissioners of Police,

may, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section.

1. For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1970, part V, page 60.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government, together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after making thereof, unless in the meantime it has been approved by the State Government.

**4. Execution of detention orders V of 1898** :- A detention order may be executed at any place in the State in the manner provided for the execution of warrants of arrest under Code of Criminal Procedure, 1898.

**5. Power to regulate place and conditions of detention** :- Every person in respect of whom a detention order has been made shall be liable-

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order specify; and

(b) to be removed from one place of detention to another place of detention, within the State, by order of the State Government.

**6. Detention orders not to be invalid or inoperative on certain grounds** :- No detention order shall be invalid or inoperative merely by reason-

(a) that the person to be detained thereunder though within the State is outside the limits if the territorial jurisdiction of the officer making the order, or

(b) that the place of detention of such person though within the State is outside the said limits.

**7. Powers in relation to absconding persons** :- (1) If the State Government or an officer mentioned in sub section (2) of Section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself that the order cannot be executed, that Government or officer may-

(a) make a report in writing of the fact to Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of Section 87, 88 and 89 of the Code of Criminal Procedure, 1898, 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 mentioned in the order of reason which rendered compliance therewith impossible and of his whereabouts, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under clause (b) of sub-section (1) shall be cognizable.

**8. Grounds of order of detention to be disclosed to persons affected by the order :-**

(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds, on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the State Government.

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

**9. Constitution of Advisory Board :-** (1) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as Judges of a High Court, and such persons shall be appointed by the State Government.

(3) the State Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

**10. Reference to Advisory Board :-** In every case where a detention order has been made under this Act, the State Government shall, within thirty days from the date of detention under the order, place before the Advisory Board constituted by it under Section 9 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in the case where the order has been made by an officer, also the report by such officer under sub-section (3) of Section 3 .

**11. Procedure of Advisory Boards :-** (1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if in any particular case it considers it essential so to do, or if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government within ten weeks from the date of detention.

(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 detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

**12. Action upon the report of Advisory Board :-** (1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the State Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of a person concerned, the State Government shall revoke the detention order and cause the person to be released forthwith.

**13. Maximum period of detention :-** The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Section 12 shall be twelve months from the date of detention.

**14. Revocation of detention orders :-** (1) Without prejudice to the provisions of Section 21 of the Bombay General Clauses Act, 1904 , a detention order may at any time be revoked or modified by the State Government, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of Section 3 .

(2) The revocation or expiry of a detention order shall not bar the making of fresh detention order under Section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the State Government or an officer, as the case may be, is satisfied that such an order should be made.

**15. Temporary release of persons detained :-** (1) The State Government may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the State Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1), shall surrender himself at the time and place, and to the authority specified in the order directing his release or canceling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1), fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

**16. Protection of action taken under the Act :-** No suit, prosecution or other legal proceedings shall lie against the State Government or any person for anything in good faith done or intended to be done in pursuance of this Act.

**17. Repeal and saving :-** (1) The Maharashtra Preventive Detention Ordinance, 1969, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any detention made or deemed to have been made or any appointment made, notification issued or direction given or any other order made by or under the said Ordinance,) shall be deemed to have been done, taken, made issued or given, as the case may be, according to its tenor under the corresponding provision of this Act.

Explanation- In respect of any person detained before the commencement of the Ordinance, now repealed, and continued in detention thereunder; his detention shall not continue beyond the maximum period described in sub-section (1) of section 11A of the Preventive Detention Act, 1950.

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