

# Prisoners Act [1900]

[Act No. 3 of 1900]

*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:

## State Amendment

### Rajasthan

The Act has been repealed in the State of Rajasthan by the Rajasthan Act 39 of 1960.

### Mysore

The Act was repealed in Mysore by the Mysore Act 25 of 1964.

## Part I

### Preliminary

**1. Short title and extent.** – (1) This Act may be called the Prisoners Act, 1900.

<sup>1</sup>[(2) It extends to the whole of India except <sup>2</sup>[the territories, which immediately before the 1st November, 1956, were comprised in Part B States] <sup>3</sup>[\* \* \*].

<sup>3</sup>(3) [\* \* \* \* \*]

### State Amendments

#### Andhra Pradesh

In Sub-section (2) of Section 1, after the expression “except the territories which immediately before 1st November, 1956 were comprised in Part B States” the words “other than the territories specified in sub-section (1) of section 3 of the State Reorganization Act, 1956” shall be added.<sup>4</sup>

#### Maharashtra

In sub-section (2) of Section 1, after the words “comprised in Part B States”, the words “other than the Hyderabad and Saurashtra areas of the State of Bombay” shall be added.<sup>5</sup>

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<sup>1</sup> Substituted by A.L.O. 1950 (with effect from [w.e.f.] 26<sup>th</sup> January, 1950).

<sup>2</sup> Substituted by A.L.O. 1956, for the words “Part B State” (w.e.f. 1<sup>st</sup> November, 1956).

<sup>3</sup> The word “and” and sub-section (3) repealed by Sec. 3 and Schedule II of the Repealing and Amending Act, 1914 (X of 1914).

<sup>4</sup> *Vide* A.P. Act XXIII of 1958, Sec. 3 (w.e.f. 1<sup>st</sup> February, 1960).

<sup>5</sup> *Vide* Bombay Act XV of 1959, sec 4.

## **Madhya Pradesh**

In sub-section (2) of Section 1 after the words “Part B States” the words “other than the Madhya Bharat and Sironj regions of the State of Madhya Pradesh” shall be added.<sup>6</sup>

## **Tamil Nadu**

In its application to the added territories of the State of Madras the amendments made in sub-section (2) of Sec. 1 by A. P. Act 23 of 1958 shall be omitted.<sup>7</sup>

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

(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 <sup>8</sup>[State Government], by general or special order, to be a subsidiary jail;

<sup>9</sup>(c) “States” means the territories to which this Act extends.

## **Part II**

### **General**

**3. Officers in-charge of prisons to detain persons duly committed to their custody.** – The officer in-charge of a prison shall receive and detain all persons 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 person has been committed, or until such person is discharged or removed in due course of law.

**4. Officers in charge of prisons to return writs, etc. after execution or discharge.** – 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.

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<sup>6</sup> *Vide* M.P. Act XXIII of 1958, Sec. 3.

<sup>7</sup> *Vide* T.N. (Added Territories) A.L.O. 1961 (w.e.f. 1<sup>st</sup> April, 1960).

<sup>8</sup> Substituted by A.O. 1950, for “Provincial Government”

<sup>9</sup> Substituted by A.L.O. 1956.

## Part III

### Prisoners in the Presidency towns

#### State Amendment

##### Bombay

In the heading to Part III of the Prisoners Act, 1900 (hereinafter called the said Act), for the words “the Presidency-towns” the words “Greater Bombay” shall be substituted.<sup>10</sup>

**5. Warrants, etc. to be directed to police officers.** – Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police Officer within the local limits of such jurisdiction.

#### State Amendments

##### Bombay

In Section 5 of the said Act, in its application to the State of Maharashtra, –

(a) after the words “criminal jurisdiction” the words “or by the Court of Session for the Greater Bombay” should be inserted;

(b) after the words “such jurisdiction” the words “or within the limits of Greater Bombay, as the case may be” shall be added.<sup>11</sup>

##### Tamil Nadu

In its application to the State of Tamil Nadu, Section 5 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered add the following sub-section, namely: –

“(2) Every warrant for the arrest of any person issued by a Court of Session shall be directed to, and executed by, a police officer within the local limits of its jurisdiction”.<sup>12</sup>

**6. Power for<sup>13</sup> [State Governments] to appoint Superintendents of Presidency prisons.** – The State Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this part.

*Explanation.* – Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to “as the Superintendent”.

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<sup>10</sup> *Vide* Bombay Act 7 of 1949, Sec. 2.

<sup>11</sup> *Vide* Bombay Act 7 of 1949, Sec. 3.

<sup>12</sup> *Vide* Madras Act 11 of 1958, Sec. 2 (w.e.f. 4<sup>th</sup> September, 1958).

<sup>13</sup> Substituted by A.O. 1950, for the words “Provincial Government” (w.e.f. 26<sup>th</sup> January, 1950).

**7. Delivery of persons sentenced to imprisonment or death by High Court.** – Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

### State Amendments

#### Maharashtra

In its application to the State of Maharashtra, in Sec. 7, –

(a) for the words “criminal jurisdiction”, substitute the words “or appellate tribunal jurisdiction or by the Court of Session for Greater Bombay”;

(b) for “the Court”, substitute the words “the High Court or the Sessions Court, as the case may be”;

(c) for the words “returned by him to the High Court when executed”, substitute the words “when executed returned by him to the High Court or the Sessions Court, as the case may be”;

(d) in the marginal note, after the words “High Court”, add the words “or Session Court”<sup>14</sup>

#### Tamil Nadu

In its application to the State of Tamil Nadu, for Sec. 7, substitute the following namely: –

**“7. Delivery of persons sentenced to imprisonment or death by High Court or Court of Session.** – Where any person is sentenced by the High Court or by a Court of Session to imprisonment for life or to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent, together with its warrant, and such warrant shall be executed by the Superintendent, and returned by him to the High Court or Court of Session, as the case may be, when executed.”<sup>15</sup>

**8. Delivery of persons sentenced to <sup>16</sup>[imprisonment for life] by High Court.** – Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment for life <sup>17</sup>[\*\*\*], the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment for life of such person shall be deemed to commence from such delivery.

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<sup>14</sup> *Vide* Bombay Act 7 of 1949, Sec. 4 (w.e.f. 11<sup>th</sup> April, 1949) read with Act 15 of 1959, Secs. 2 and 3; Maharashtra A.L.O. (Am.), 1961.

<sup>15</sup> Madras Act 11 of 1958, Sec. 3 (w.e.f. 4<sup>th</sup> July, 1958).

<sup>16</sup> *Vide* Sec. 53-A, Indian Penal Code.

<sup>17</sup> The words “penal servitude” omitted by Sec. 4 of the Criminal Law (Removal of Racial Discrimination) Act, 1949 (7 of 1949) (w.e.f. 6<sup>th</sup> April, 1949).

## State Amendments

### Maharashtra

In its application to the State of Maharashtra, in Section 8, –

- (a) for the words “criminal jurisdiction”, substitute the words “or appellate criminal jurisdiction or by the Court of Session for Greater Bombay”;
- (b) for “the Court”, substitute the words “the High Court or the Sessions Court, as the case may be”;
- (c) in the marginal note after the words “High Court”, add the words “or the Sessions Court”.<sup>18</sup>

### Tamil Nadu

In its application to the State of Madras Sec. 8 shall be omitted.<sup>19</sup>

**9. Delivery of persons committed by High Court in execution of a decree or for contempt.** – Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

## State Amendment

### Maharashtra

In its application to the State of Maharashtra in Section 9, –

- (a) after the words “High Court”, the words “the Bombay City Civil Court or the Court of Session for Greater Bombay” shall be inserted;
- (b) for the words “the Court”, the words “the High Court, the City Court if the Sessions Court, as the case may be” shall be substituted;
- (c) in the marginal note, after the words “High Court”, the words, City Court or Sessions Court” shall be inserted.<sup>20</sup>

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

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<sup>18</sup> *Vide* Bombay Act 7 of 1949, Sec. 5 (w.e.f. 11<sup>th</sup> April, 1949), read with Act 15 of 1959, Secs. 2 and 3 and Maharashtra A.L.O. 1961.

<sup>19</sup> *Vide* Madras Act 11 of 1958, Sec. 4 (w.e.f. 4<sup>th</sup> June, 1958).

<sup>20</sup> *Vide* Bombay Act 7 of 1949, Sec. 6 (w.e.f. 1<sup>st</sup> April, 1949) read with Act 15 of 1959, Secs. 2 and 3 and Maharashtra A.L.O., 1961.

## State Amendments

### Andhra Pradesh

In its application to the State of Andhra Pradesh in territories added to Andhra Pradesh by act 56 of 1959, in Section 10, as substituted by Mad. Act 11 of 1958, the words “by a Presidency Magistrate”, “the Magistrate or” and “his or” shall be omitted.<sup>21</sup>

### Tamil Nadu

In its application to the State of Tamil Nadu for Section 10, substitute the following section, namely:

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**“10. Delivery of persons sentenced by President Magistrate or by any Court constituted under lawful authority.** – Where any person is sentenced by a Presidency Magistrate or by any Court constituted under lawful authority to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate or the Court shall cause him to be delivered to the Superintendent, together with his or its warrant”.<sup>22</sup>

**11. Delivery of persons committed for trial by High Court.** – Every person committed by a Magistrate, or <sup>23</sup>[Justice of the Peace] for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

## State Amendments

### Maharashtra

In its application to the State of Maharashtra, in Section 11, –

(a) after the words “criminal jurisdiction” insert the words “or by the Court of Session for Greater Bombay”;

(b) for the words “the Court” substitute, at both the places where they occur, the words “the High Court or the Sessions Court, as the case may be”;

(c) in the marginal note, after the words “High Court” add the words “or Sessions Court.”<sup>24</sup>

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<sup>21</sup> *Vide* Andhra Pradesh A.L.O. 1961 (w.e.f. 1<sup>st</sup> April, 1960).

<sup>22</sup> *Vide* Madras Act 11 of 1958, Sec. 10 (w.e.f. 4<sup>th</sup> June, 1958).

<sup>23</sup> Substituted For “Justice of the Peace, or Coroner” by Sec. 11 of the Coroners (Amendment) Act, 1908 (4 of 1908).

<sup>24</sup> *Vide* Bombay Act 7 of 1949, Sec. 7 (w.e.f. 11<sup>th</sup> April, 1949) read with Act 15 of 1959, Secs. 2 and 3; Maharashtra A.L.O. 1961.

## Tamil Nadu

In its application to the State of Madras, for Section 11, substitute the following, namely, –

**“11. Delivery of persons committed for trial by a Court of Session.** – Every person committed by a Magistrate or Justice of the Peace for trial by a Court of Session, shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court whenever required together with the warrant of commitment, in order that he maybe dealt with according to law.”<sup>25</sup>

**12. Custody pending hearing by High Court under Section 350 of the Code of Civil Procedure of application for insolvency.** – The High Court may, pending the hearing, under <sup>26</sup>Section 350 of the Code of Civil Procedure (15 of 1882) of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of Section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor 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.

**13. Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency town.** – (1) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in 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.

(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 or Judge shall have power to make or award all necessary orders or warrants for that purpose.

## State Amendment

### Maharashtra

In its application to State of Maharashtra, in Section 13, –

(a) in sub-section (1) for the words “a Presidency-town” substitute the words “Greater Bombay”;

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<sup>25</sup> *Vide* Madras Act XI of 1958, Sec. 6 (w.e.f. 4<sup>th</sup> June).

<sup>26</sup> This reference should be construed as applying to the provincial Insolvency Act, 1920 (5 of 1820). See Sec. 83 (2) of that Act.

(b) in the marginal note to the said section, for the words “Presidency town” substitute the words “Greater Bombay”.<sup>27</sup>

## Part IV

### Prisoners outside the Presidency Towns

**14. References in this Part to prisons, etc. to be construed as referring also to reformatory schools.** – In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to reformatory schools or to detention therein.

### State Amendment

#### Maharashtra

In the heading to Part IV for the words “the Presidency-towns” substitute the words “Greater Bombay.”<sup>28</sup>

**15. Power for officers-in-charge of prisons to give effect to sentences of certain Courts.** – (1) Officers-in-charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued –

- a) by any Court or tribunal acting 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 –
  - (i) 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
  - (ii) if the reception, detention or imprisonment in any province of India of persons sentenced by any such Court or tribunal has 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.

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<sup>27</sup> *Vide* Bombay Act 7 of 1949, Sec. 8.

<sup>28</sup> *Vide* Bombay Act 7 of 1949, Sec. 9.

## State Amendment

### Maharashtra

In its application to the State of Maharashtra, in sub-section (1) of Section 15, for the words “the Presidency-towns” substitute the words “Greater Bombay”.<sup>29</sup>

**16. Warrant of officer of such Court to be sufficient authority.** – 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 holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

## State Amendment

### Tamil Nadu

In its application to the State of Tamil Nadu, in Section 16, for the words “for transportation” substitute the words “for imprisonment for life”.<sup>30</sup>

**17. Procedure where officer-in-charge of prison doubts and legality of warrant sent to him for execution under this Part.** – (1) Where an officer in-charge of a prison doubts the legality of 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 thereto to pass 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 officer 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.

**18. Execution in the States of certain capital sentences not ordinarily executable there.** – (1) Where a <sup>31</sup>[Court established by the authority of the Central Government] exercising, in or with respect to territory beyond the limits of the States, jurisdiction which the Central Government has in such territory, –

- a) has sentenced any person to death, and
- 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 decent 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 [1][Section 381 of the Code of Criminal Procedure, 1898 (5 of 1898)].<sup>32</sup>

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<sup>29</sup> *Vide* Bombay Act 7 of 1949, Sec 10 (w.e.f. 11<sup>th</sup> April, 1949) read with Act 15 of 1959, Secs. 2 and 3 and Maharashtra A.L.O. 1961.

<sup>30</sup> *Vide* Madras Act 11 of 1958, Sec. 7 (4<sup>th</sup> June, 1958).

<sup>31</sup> Substituted by A.O. 1948 for the words “British Court.”

<sup>32</sup> See now the Code of Criminal Procedure, 1973 (2 of 1974).

(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, by general or special order, direct.

## Part V

### Persons under Sentence of Penal Servitude

Sections 19-27 – [*Repealed by Section 4 of the Criminal Law (Removal of Racial Discriminations) Act, 1949* (17 of 1949) (with effect from 6<sup>th</sup> April, 1949)].

## Part VI

### Removal of Prisoners

**28. References in this Part to prisons, etc., to be construed as referring also to reformatory schools.** – In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to reformatory schools or to detention therein.

<sup>33</sup>**29. Removal of prisoners.** – (1) The State Government may, by general or special order, provide for the removal of any prisoner confined in a prison –

- 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.

(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.

## State Amendment

### Tamil Nadu

In its application to the State of Tamil Nadu, in Section 29, –

(i) in sub-section (1), in Clause (b), for the words “or transportation” substitute the words “or imprisonment for life”;

(ii) after sub-section (2), add the following sub-section, namely, – “(3) Subject to the orders, and under the control, of the State Government any person who is detained in custody in a prison

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<sup>33</sup> This section was substituted by Sec. 3 and Schedule II of the Amending Act, 1903 (1 of 1903).

pending inquiry or trial under any writ, warrant or order of any Court may, by order, be directed to be removed –

(i) from one subsidiary jail to another subsidiary jail in the district, by the Collector of the district or by his Personal Assistant (not below the rank of Deputy Collector),

(ii) from one subsidiary jail to another subsidiary jail within the jurisdiction of a Revenue Divisional Officer, by the Revenue Divisional Officer,

(iii) from a subsidiary jail in one district to a subsidiary jail in another district, by the Collector of the district from which the person is removed with the consent of the Collector of the other district,

(iv) by the Inspector General of Prisons –

from one Central Jail to a District Jail or a subsidiary jail;

from one District Jail to another District Jail or a Central Jail or a subsidiary jail; or

from one subsidiary jail to another subsidiary jail or to a District Jail or a Central Jail”.<sup>34</sup>

**30. Lunatic prisoners how to be dealt with.** – (1) Where it appears to the State Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the State Government may, by a warrant setting forth the grounds of belief that the person is 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 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 direct 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.

(3) The provisions of [2][Section 9 of the Lunatic Asylums Act, 1858 (36 of 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; and the provisions of this section respecting the custody, detention, remand the

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<sup>34</sup> *Vide* Madras Act 11 of 1958, Sec. 8 (w.e.f. 4<sup>th</sup> June, 1958).

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 Section 4 and Schedule III of the Amending Act, 1903 (1 of 1903).*

### State Amendment

**Bihar** (*Insertion of new Part VI-A in Act III of 1900*).

After Part VI insert the following part, namely: —

#### **“Part VI-A**

**31-A. Constitution of District Parole Board.** — There shall be established for each district a District Parole Board consisting of the District Magistrate, the Superintendent of Police, two members of the State Legislature to be nominated by the State Government and the Superintendent of the Jail, or, if there is a Central Jail in the District, the Superintendent of that Jail.

**31-B. Release of prisoners on parole.** — (1) The State Government, or any authority to which the State Government may delegate its powers in this behalf, may, on recommendation of this District Parole Board, direct that a prisoner may be released, either without conditions or upon such conditions as may be specified in the direction, for any period not exceeding thirty days at a time, excluding the time required for journeys and the days of departure from, and the arrival at, the prison:

Provided that no prisoner shall be released under this sub-section, unless —

- a) he has served a period of not less than one year excluding remissions of his sentence;
- b) his conduct in prison has been, in the opinion of the District Parole Board, uniformly good;
- c) there is, in the opinion of the District Parole Board, reasonable probability that during the period of his release he shall not commit any crime; and
- d) in the case of a second or subsequent release, not less than six months have elapsed from the date of the expiry of this previous release:

Provided further that no prisoner shall be released under this sub-section more than three times.

(2) The provisions of sub-section (1) shall not apply to a prisoner, —

- (i) who has been convicted of an offence specified in the Schedule annexed to this part; or
- (ii) who has been classified as a habitual criminal under the rules made under the Prisons Act, 1894 and has more than three previous convictions.

(3) The period of release of a prisoner under sub-section (1) shall count towards the total period of his sentence, provided that he surrenders on the due date and his conduct has been satisfactory during the period he was outside the jail on parole.

**31-C. Power to release prisoners for special reasons.** — (1) Notwithstanding anything to the contrary contained in Section 31-B or in any other law for the time being in force, the State Government, or any authority to which the State Government may delegate its powers in this behalf, may, for any special reasons, direct that a prisoner may be released for a period not exceeding fifteen days (excluding the time required for journeys and the days of departure from, or arrival at,

the prison), either without conditions or upon such conditions specified in the direction as the prisoner accepts, and may, at any time cancel his release.

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

(3) 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:

Provided that no prisoner shall, without the special sanction of the State Government, be released under this section, unless –

- (i) he has served at least six months of his sentence including remissions;
- (ii) his conduct has been, in the opinion of the Superintendent of the jail in which he is serving his sentence, uniformly good;
- (iii) he is not a habitual criminal under the rules made under the Prisons Act, 1894; and
- (iv) the offence for which he has been convicted, does not, in the opinion of the authority directing the release, involve grave moral turpitude or mental depravity.

**31-D. Surrender of a prisoner on the expiry of the period of a temporary release.** – (1) Any prisoner released under Section 31-B, or Section 31-C, shall surrender himself to the officer-in-charge of the prison from which he was released; and, if the prisoner does not surrender himself he may be arrested by any police officer without a warrant and shall be remanded to custody to undergo the unexpired period of his sentence.

(2) Any prisoner, who does not surrender himself as required by sub-section (1), shall be liable, upon conviction, to be punished with imprisonment of either description for a term, which may extend two years, or to a fine, which may extend to five hundred rupees, or with both.

**31-E. Power to make rules.** – (1) The State Government may make rules for carrying out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may provide for –

- a) the procedure to be followed in respect of the proceedings for the release of prisoners;
- b) the conditions of release of prisoners including conditions for supervision during the period of such release;
- c) travelling allowances for prisoners during the period of release;
- d) restrictions on the movements of prisoners during the period of release; and
- e) travelling allowances for non-official members attending the meetings of the District Parole Board.

## **The Schedule**

[See Section 31-B (2)]

1. An offence punishable under Section 119 IPC.

2. An offence punishable under Sections 121, 121-A, 122, 123, 128 or 130 of the IPC.
3. An offence punishable under Section 131 or 132 IPC.
4. An offence punishable under Section 194 or 195 IPC.
5. An offence punishable under Section 232, 235, 238 or 240 IPC.
6. An offence punishable under Sections 302, 303, 304, 306 or 307 of IPC.
7. An offence punishable under Sections 313, 314, or 316 of IPC.
8. An offence punishable under Sections 364, 366, 366-A, 366-B, 367 or 372, IPC.
9. An offence punishable under Section 376 or 377 of IPC.
10. An offence punishable under Sections 392, 394, 395, 396, 397, 398, 399 or 400 of IPC.
11. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.”

## **Madhya Pradesh**

In its application to the State of Madhya Pradesh after Part VI of the Prisoners Act, 1900 the following Part shall be inserted namely: –

### ***“Part VI-A***

#### ***Temporary Release of Prisoners***

***31-A. Temporary release of prisoners.*** – (1) The State Government or any authority to which the State Government may delegate its power in this behalf may, subject to such conditions as may be prescribed by rules, release temporarily for a period not exceeding ten days in a year excluding the time required for journeys and the days of departure from and the arrival at the prison, any prisoner who has been sentenced to a term of imprisonment of not less than three years.

(2) The provisions of sub-section (1) shall not apply to a prisoner who has been classified as a habitual criminal for the purpose of the rules for the times being in force made under the Prisons Act, 1894, or the same Act, as applied to Berar, and who has more than three previous convictions.

(3) No prisoner shall be released under sub-section (1) unless–

- a) he has at the time of his release served one half of his sentence including remission or a period of not less than two years of his sentence, including remission, whichever is less;
- b) his conduct in prison has been good; and
- c) twelve months have elapsed from the date of expiry of the period of his previous release, if any under this section.

(4) The period of release of a prisoner under sub-section (1) shall be not counted towards the total period of his sentence.

**31-B. Surrender by prisoner after release period.** – (1) On the expiry of the period for which the prisoner was released under sub-section (1) of Section 31-A he shall surrender himself to the officer-in-charge of the prison from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired period of his sentence.

**31-C. Penalty.** – Any prisoner who does not surrender himself as required by sub-section (1) of Section 31-B shall be liable upon conviction to be punished with imprisonment of either description for a term which may extend to two years, or with a fine or with both”.<sup>35</sup>

## **Maharashtra**

This chapter as it is applied to the Vidarbha Region of the State of Maharashtra has been repealed by Bom. Act 23 of 1959, Sec. 5 (ii) (w.e.f. 1<sup>st</sup> June, 1959).

## **Tripura**

In its application to the State of Tripura after Part VI insert the following.

### ***PART VI-A***

**“31-A. Temporary release of Prisoners.** – (1) The State Government or such authority as the State Government may empower in this behalf may, subject to the provisions contained in Sections 433 and 433-A of the Code of Criminal Procedure, 1973 and to such conditions as may be prescribed under Section 31-D at any time, release, temporarily for a period not exceeding one month at a time excluding the time required for journey from and to the prison, any prisoner who, having been sentenced to imprisonment for a term of two years or more has actually undergone imprisonment for not less than one year:

Provided that before a prisoner is released under this sub-section he shall have to execute a bond with or without sureties as the State Government or other authority making the order of release may determine, for good behaviour during the period of release and for observing the conditions of the release.

*Explanation.* – In this Part ‘Prisoner’ does not include a person convicted of any offence under Chapter VI or Chapter VII or under any of Sections 392 to 402 (both inclusive), of the Indian Penal Code, 1860, or classified as a habitual criminal for the purpose of the rules for the time being in force made under the Prisons Act, 1894.

(2) No prisoner shall be released under sub-section (1) unless –

(a) he shall have, after the expiry of the period of release, at least one year of further imprisonment to undergo;

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<sup>35</sup> *Vide* C.P. and Berar Act 4 of 1939, Sec. 2 (w.e.f. 2<sup>nd</sup> June, 1939) read with M.P. Act 23 of 1958, Sec. 3 (1).

(b) the officer-in-charge of the prison certifies that the conduct of the prisoner in the prison has been good.

(3) Every prisoner shall, when released under sub-section (1), remain within Tripura during the period of such release.

(4) The provisions of Section 446, 447, 448 and 449 of the Code of Criminal Procedure, 1973, shall, as far as may be, apply in respect of bonds executed, with or without sureties, in pursuance of the proviso to sub-section (1).

(5) The order granting release may be cancelled by the State Government or any other authority making the order for any reason considered sufficient by it shall be so cancelled if, during the period of release, the prisoner contravenes any of the conditions of the release or commits any offence.

(6) Subject to the provisions of sub-section (2) of Section 31-C of the period of release of a prisoner under sub-section (1) shall count towards the total period of his sentence.

**31-B. Special provision for release on long-term parole.** – (1) Notwithstanding anything contained in Section 31-A and subject to the provisions of Sections 433 and 433-A of the Code of Criminal Procedure, 1973 or any other law for the time being in force the State Government may, subject to such conditions as may be prescribed by rules made under Section 31-D at any time, direct that a prisoner may be released upon such conditions as may be specified in the directions for any period not exceeding two years and may at any time cancel his release:

Provided that if the State Government having regard to the conduct and behaviour of the prisoner released on parole is satisfied that the release of the prisoner shall continue after expiry of the period of two years aforesaid it may, from time to time, issue directions for such continuance for such period, not exceeding one year at a time, as may be specified in the directions; so however, that the total period of such continuance in parole (after the expiry of the said period of two years) does not exceed eight years:

Provided further that no prisoner shall be released under this sub-section, unless –

- a) he has been sentenced to undergo rigorous imprisonment for ten years or more;
- b) he has served at least 5 years of his sentence excluding remission of his sentence but including the period of detention, if any, spent by him during trial and the period spent on temporary release on parole under Section 31-A;
- c) his conduct has been in the opinion of the Superintendent of Jail in which he has served the sentence uniformly good;
- d) he is not a habitual criminal under the rules made under the Prisons Act, 1894 and had not more than three previous convictions;
- e) the offences for which he has been convicted, does not in the opinion of the State Government involves gross moral turpitude or mental depravity.

(2) The State Government while directing to release of any prisoner under sub-section (1) may required him to enter into a bond with or without surety for the due observance of the conditions specified in the directions and the provisions of Sections 446, 447, 448 and 449 of the Code of Criminal Procedure, 1973, as far as may be, apply in respect of bond executed under sub-section (1).

(3) If any prisoner 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 prisoner bound thereby shall be liable to the penalty thereof.

(4) Subject to the provisions of sub-section (2) of Section 31-C the period of release of a prisoner under sub-section (1) shall count towards the period of his sentence.

**31-C. Surrender by prisoners after release period.** – (1) On the expiry of the period for which a prisoner is released under sub-section (1) of Section 31-A or under Section 31-B he shall surrender himself to the officer-in-charge of the prison from which he is released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence (the period of release not being counted towards the total period of his sentence) and shall also be punishable under Section 46 of the Prisons Act, 1894, as if he has committed a prison offence referred to in Section 45 of that Act.

**31-D. Power to make rules.** – (1) The State Government may make rules for carrying out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing provisions of such rules may provide for –

- a) the procedure to be followed in respect of the proceedings for the release of prisoners under Section 31-A, or under Section 31-B;
- b) the conditions of release of prisoners under Section 31-A, or as the case may be, of extension of release under Section 31-B including conditions for supervision during the period of such release;
- c) traveling allowances for prisoners during the period of release under Section 31-A or Section 31-B; and
- d) restrictions on the movements of prisoners during the period of release under Section 31-A or Section 31-B.

(3) Every rule made under this part shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid the Legislative Assembly makes any modification in the rule or decide that the rule shall not be made, the rule shall thereafter 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 the rule.<sup>36</sup>

## **West Bengal**

In its application to the State of West Bengal, after Part VI insert the following:

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<sup>36</sup> *Vide* Tripura Act 20 of 1979, Sec. 2 (w.e.f. 27<sup>th</sup> November, 1979).

<sup>37</sup>“PART VI-A

**31-A. Temporary release of Prisoners.** – (1) The State Government or such authority as the State Government may empower in this behalf may, subject to the provisions of this Part and to such conditions as may be prescribed by rules made under Section 31-C, at any time, release, temporarily for a period not exceeding one month excluding the time required for journey from and to the prison, any prisoner who, having been sentenced to imprisonment for a term of more than two years, has actually undergone imprisonment for not less than one year:

Provided that before a prisoner is released under this sub-section he shall have to execute a bond, with or without sureties as the State Government or other authority making the order of release may determine, for good behaviour during the period of release and for observing the conditions of the release:

Provided further that a prisoner who has previously been temporarily released under this sub-section shall not again be so released unless after his return to prison from the last temporary release there shall have elapsed –

- a) in the case of a prisoner sentenced to imprisonment for a term of less than five years, a period of one year, or
- b) in the case of a prisoner sentenced to imprisonment for a term of five years or more, a period of two years.

*Explanation.* – In this Part “prisoners” does not include a person convicted of any offence under Chapter VI or Chapter VII or under any of Sections 392 to 402 (inclusive), of the Indian Penal Code or classified as a habitual criminal for the purpose of the rules for the time being in force made under the Prisons Act, 1894.

(2) No prisoner shall be released under sub- section (1) unless –

- a) he shall have, after the expiry of the period of release, at least one year of further imprisonment to undergo;
- b) he has undergone, with remission earned, imprisonment for –
  - (i) in the case of a prisoner sentenced to imprisonment for a term of less than five years, half the period of his sentence, or
  - (ii) in the case of a prisoner sentenced to imprisonment for a term of five years or more, half the period of his sentence or a period of three years, whichever is less;
- c) the officer in-charge of the prison certifies that the conduct of prisoner in the prison has been good.

(3) Every prisoner shall, when released under sub- section (1), remain within West Bengal during the period of such release.

(4) The provisions of Sections 514, 514-A, 514-B and 515 of the Code of Criminal Procedure, 1898, shall, as far as may be, apply in respect of bonds executed, with or without sureties, in pursuance of the first proviso of sub-section (1).

(5) The order granting release may be cancelled by the State Government or other authority making the order for any reason considered sufficient by it and shall be so cancelled if, during the period of release, the prisoner contravenes any of the conditions of the release or commits any offence.

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<sup>37</sup> Inserted by W.B. Act 13 of 1955, Sec. 3 (w.e.f. 19<sup>th</sup> April, 1955).

(6) Subject to the provisions of sub-section (2) of Section 31-B, the period of release of a prisoner under sub-section (1) shall count towards the total period of his sentence.

**31-B. Surrender by prisoner after release period.** – (1) On the expiry of the period for which a prisoner is released under sub-section (1) of Section 31-A, he shall surrender himself to the officer-in-charge of the prison from which he is released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence (the period of release not being counted towards the total period of his sentence) and shall also be punishable under Section 46 of the Prisons Act, 1894, as if he had committed a prison offence referred to in Section 45 of that Act.

**31-C. Power to make rules.** – (1) The State Government may make rules for carrying out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may provide for –

- a) the procedure to be followed in respect of the proceedings for the release of prisoners under Section 31-A;
- b) the conditions of release of prisoners under Section 31-A including conditions for supervision during the period of such release;
- c) traveling allowances for prisoners during the period of release under Section 31-A; and
- d) restrictions on the movements of prisoners during the period of release under Section 31-A.

## **Part VII**

### **Persons Under Sentence Of Imprisonment for Life**

**32. Appointment of places for confinement of persons under sentence of imprisonment for life<sup>38</sup> and removal thereto.** – (1) The State Government may appoint places within the State to which persons under sentence of imprisonment for life shall be sent; and the State Government, or some officer duly authorized in this behalf by the State Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of imprisonment for life is passed on a person already undergoing imprisonment for life under a sentence previously passed for another offence.

(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 imprisonment for life, 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.

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<sup>38</sup> *Vide* Sec. 53-A of the IPC.

## State Amendment

### Tamil Nadu

In its application to the State of Tamil Nadu, omit Part VII.<sup>39</sup>

### Part VIII

#### Discharge of Prisoners

**33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon.**  
– Any High Court may, in any case in which it has recommended to Government the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

### Part IX

#### Provisions For Requiring The Attendance Of Prisoners And Obtaining Their Evidence

**34-52.** *Rep. by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955),*

**53.** *[Repealed] Rep. by the Repealing and Amending Act, 1914 (10 of 1914),*

**The First Schedule** -- *Rep. by the Prisoners (Attendance in Courts) Act, 1955 (32 of 1955)*

**The Second Schedule** -- *Rep. by Section 10, Ibid.*

**The Third Schedule** -- *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

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<sup>39</sup> *Vide* Madras Act 11 of 1958, Sec. 9 (w.e.f. 4<sup>th</sup> June, 1958).