



The Nagaland Habitual offenders Act, 1967

Act 12 of 1967

Keyword(s):

Corrective Settlement, Habitual offender, Registered offender, Scheduled offence

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

THE NAGALAND ACT 12 OF 1967

[THE NAGALAND HABITUAL OFFENDERS ACT, 1967]

*Received the assent of the Governor of Nagaland on the
28th November, 1967.*

*(Published in the Nagaland Gazette-Extraordinary, Dated
Kohima, 4th December, 1967).*

An Act to provide for the treatment and training of
habitual offenders.

It is hereby enacted in the Eighteenth Year of the Republic of India
as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.—1. (1) This Act may be
called the Nagaland Habitual offenders Act, 1967.

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

(3) It shall come into force on such date as the State Government
may by notification in the Official Gazette appoint.

Definition.—2. In this Act, unless the context otherwise requires :—

(a) 'corrective settlement' means any place established, approved or
certified as a corrective-settlement under section 13 ;

(b) 'habitual offender' means a person who during any continuous
period of five years, whether before or after the commencement of
this Act or partly after such commencement of this Act, has been
sentenced on conviction on not less than three occasions since he
attained the age of eighteen years to a substantive term of

imprisonment for any one or more of the scheduled offences committed on different occasions and not so connected together as to form parts of the same transaction, such sentence not having been reserved in appeal or on revision :

Provided that in computing the continuous period of five years referred to above any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account ;

- (c) 'prescribed' means prescribed by rules made under this Act ;
- (d) 'registered offender' means a habitual offender registered or re-registered under this Act ;
- (e) 'scheduled offence' means an offence specified in the schedule or an offence analogous thereto.

CHAPTER II

REGISTRATION OF HABITUAL OFFENDERS AND

RESTRICTION ON THEIR MOVEMENTS

Power of State Government to direct registration of habitual offenders.—3. The State Government may direct the Deputy Commissioner to make a register of habitual offenders within his district by entering therein the names and other prescribed particulars of such offenders.

4. For the purpose of carrying out the direction given under section 3 the Deputy Commissioner or any officer appointed by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the district—

- (a) to appear before him at a time and place therein specified ;
- (b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of habitual offender in the register ; and
- (c) to allow his finger and palm impressions, footprints and photograph to be taken ;

Provided that the name and other prescribed particulars of a habitual offender shall not be entered in the register unless he has been afforded reasonable opportunity of showing cause why such entry should not be made.

Charge of register and alterations therein.—5. (1) The register shall be placed in the keeping of the Superintendent of Police who shall from time to time, report to the Deputy Commissioner any alterations which ought in his opinion to be made therein.

(2) After the register has been placed in the keeping of the Superintendent of Police, no fresh entry shall be made in the register, nor shall any entry be cancelled, except by, or under an order in writing of, the Deputy Commissioner.

Power to take finger and palm impressions, foot prints and photographs at any time.—6. The Deputy Commissioner or any officer appointed by him in this behalf may at any time order the finger and palm impressions, foot-prints and photographs of any registered offender to be taken.

Registered offenders to notify change of residence and to report themselves.—7. (1) Every registered offender shall notify to such authority and in such manner as may be prescribed any change or intends to change of his ordinary residence :

Provided that where such offender changes or intends to change his ordinary residence to another district whether (within the same State or not) he shall notify the change or intended change to the Deputy Commissioner.

(2) The Deputy Commissioner may by order in writing direct that any registered offender shall—

- (a) report himself once in each month or where the Deputy Commissioner or reasons specified in the order to direct, more frequently, to such authority and in such manner as may be specified;
- (b) notify any absence or intended absence from his ordinary residence to the aforesaid authority :

Provided that the Deputy Commissioner may exempt any such offender from notifying any absence intended absence from his ordinary residence for such period and under such conditions as to him may appear reasonable.

Migration of offender from one to another district :—

8. (1) Where any registered offender changes his ordinary residence to another district within this State, the Deputy Commissioner of the district in which the offender is registered shall inform the Deputy Commissioner of the other district about such change and at the same time furnish him with the name and other particulars of the registered offender.

(2) On the receipt of such information the Deputy Commissioner of the other district shall enter in his register the name and other particulars of the registered offender and inform the Deputy Commissioner of the first district about such registration and thereupon such Deputy Commissioner shall cancel from his register the entry relating to that offender :

Provided that where a registered offender changes his ordinary residence to another district outside this State, Deputy Commissioner of the first district shall, while furnishing the District Magistrate of the other district with the name and other particulars of the registered offender make a request to that District Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law for the time being in force in that other district and upon the receipt of such information the Deputy Commissioner of the first district shall cancel from his register the entry relating to that offender.

(3) Upon the entry of the name and other particulars of a registered offender in the register under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

Duration of registration and re-registration of habitual offenders.—

9. (1) The registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration and on such cancellation or expiry the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation, or expiry of duration, or registration a habitual offender may be re-registered in accordance with the provisions of this Act relating to registration as often as he is convicted of one or more of the scheduled offences at any time after such cancellation, or expiry and the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Notwithstanding anything contained in sub-sections (1) and (2) where a registered offender is, during the period of registration or re-registration convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

Right to make representation etc.—10. (1) Any person deeming himself aggrieved by the registration or re-registration of his name under section 4 or as the case may be, under section 9 or by an order under sub-section (2) of section 7 may within the prescribed period make a representation to the State Government against such registration, re-registration or order.

(2) The State Government shall, after considering the representation and giving the aggrieved person an opportunity of being heard either confirm or cancel the registration, re-registration or order, as the case may be and shall in the case of confirmation record a brief statement of the reasons therefor.

Power to restrict movements of registered offenders.—11. (1) If, in the opinion of the State Government it is necessary or expedient in the interest of the general public so to do, the State Government may by order direct that any registered offender shall be restricted in his movements to such area and for such period not exceeding three years as may be specified in the order.

(2) Before making any such order the State Government shall take into consideration the following matters, namely:—

- (a) the nature of the offences of which the registered offender has been convicted and the circumstance in which the offences were committed;

Power to transfer from corrective settlement.—15. The State Government or any officer authorised by it in this behalf may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for failure to comply with certain provisions of the Act.—16. A habitual offender who without lawful excuse, the burden of providing which shall lie upon him—

- (a) fails to appear in compliance with a notice issued under section 4, or
- (b) intentionally omits to furnish any information required under that section or furnishes as true any information which he knows, or has reason to believe to be false or does not believe to be true, or
- (c) refuses to allow his finger and palm impressions, foot prints and photographs to be taken by any person acting under an order passed under section 6, or
- (d) fails to comply with the provisions of sub-section (1), or with an order of the Deputy Commissioner under sub-section (2) of section 7 or with an order of the State Government under section 11, may be arrested without warrant and shall be punishable—
 - (i) on 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, and
 - (ii) 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.

Provided that if the court after taking into consideration the offender's age and physical and mental condition and his suitability for receiving

training of corrective character in a corrective settlement is satisfied that it is expedient with a view to his reformation and the prevention of crime that he should receive training of a corrective character for a substantial time the court may in lieu of sentencing the offender to any punishment under this section, direct, after giving him an opportunity of showing cause, that he shall receive corrective training in a corrective settlement for such term not exceeding three years as it may determine.

Arrest of persons outside restriction area or corrective homes.—

17. If any person—

- (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 corrective settlement in which he is placed, he may be arrested without warrant by a police officer, village headman or village authorities and taken before a Magistrate who, on proof on the facts, may order him to be removed to such area or to such corrective settlement there to be dealt with in accordance with this Act and the rules made thereunder.

CHAPTER V

MISCELLANEOUS

Bar of Jurisdiction.—18. No court shall question the validity of any direction or order issued under this Act.

Bar of legal proceedings.—19. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to delegate—20. The State Government, may, by notification in the Official Gazette, direct that any power exercisable by it under this Act except the power under section 21 may also be exercised subject to such condition, if any, as may be specified in the notification, by such officer not below the rank of a Deputy Commissioner as may be specified therein.

21. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

- (a) the form of notice under section 4 and the manner in which such notice may be served ;
- (b) the form of the register of habitual offenders and the particulars to be entered therein ;
- (c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under sub-section (f) of section 7 ;
- (d) the nature of restrictions to be observed by registered offenders whose movements have been restricted ;
- (e) the grant of certificate of identity to registered offenders and inspection of such certificates ;
- (f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlements in which they have been placed ;
- (g) the terms upon which offenders may be discharged from corrective settlements ;
- (h) the working, management, control and supervision of corrective settlements including the discipline and conduct of persons placed therein ;
- (i) the conditions for, and the manner of, approving or certifying privately-managed settlements ;
- (f) the appointment of non-official visitors for corrective settlements ;
- (k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement ;

(l) the periodical review of the cases of all persons whose movements have been restricted or who are placed in corrective homes under this Act ;

(m) any other matter which is to be or may be prescribed under this Act.

(3) In making rules under this Act the State Governments may provide that a contravention of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of seven days, which may be comprised in one session or in two successive sessions, and if, before, the expiry of the session in which it is so laid or the sessions immediately following, the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should 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 that rule.

THE SCHEDULE

See Section 2 (e)

I

Offences under the Indian Penal Code

CHAPTER XII

Sections

- 231 Counterfeiting coin.
- 232 Counterfeiting Indian coin.
- 233 Making or selling instrument for counterfeiting coin.
- 234 Making or selling instrument for counterfeiting Indian coin.

- 235 Possession of instrument or material for the purpose of using the same for counterfeiting coin : if Indian Coin.
- 239 Delivery of coin, possessed with knowledge that it is counterfeit.
- 240 Delivery of Indian coin, possessed with knowledge that it is counterfeit.
- 242 Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
- 243 Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI

- 304 Punishment for culpable homicide not amounting to murder.
- 307 Attempt to murder.
- 308 Attempt to commit culpable homicide.
- 310 Thug
- 311 Punishment
- 322 Voluntarily causing grievous hurt.
- 324 Voluntarily causing hurt by dangerous weapons or means.
- 326 Voluntarily causing grievous hurt by dangerous weapons or means.
- 327 Voluntarily causing hurt to extort property or to constrain to an illegal act.
- 328 Causing hurt by means of poison, etc., with intent to commit an offence.
- 329 Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
- 332 Voluntarily causing hurt to deter public servant from his duty.

- 333 Voluntarily causing grievous hurt to deter public servant from his duty.
- 347 Wrongful confinement to extort property, or to constrain to illegal act.
- 365 Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366A Procuration of minor girl.
- 366B Improtation of girl from foreign country.
- 368 Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
- 369 Kidnapping or abducing child under ten years with intent to steal from its person.

CHAPTER XVII

- 379 Theft.
- 380 Theft in dwelling house, etc.
- 382 Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.
- 384 Extortion.
- 385 Putting person in fear of injury in order to commit extortion.
- 386 Extortion by putting a person in fear of death or grievous hurt.
- 387 Putting person in fear of death or grievous hurt, in order to commit extortion.
- 392 Punishment for robbery.
- 393 Attempt to commit robbery.
- 394 Voluntarily causing hurt in committing robbery.
- 395 Punishment for dacoity.

- 397 Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398 Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399 Making preparation to commit dacoity.
- 400 Punishment for belonging to a gang of dacoits.
- 401 Punishment for belonging to a gang of thieves.
- 402 Assembling for purpose of committing dacoity.
- 411 Dishonestly receiving stolen property.
- 414 Assisting in concealment of stolen property.
- 451 House-trespass in order to commit offence punishable with imprisonment.
- 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 Punishment for Lurking house-trespass or house-breaking by night.
- 457 Lurking house trespass or house-breaking by night to commit in order offence punishable with imprisonment.
- 458 Lurking house-trespass or house-breaking by night for hurt, assault, or wrongful restraint.
- 459 Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460 All persons jointly concerned in a lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

II

Offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Living on the earnings of prostitution.