

Repealed by the 10th Control of Goondas Ordinance, 1955
(W.P. Ord. XXXV
3 (7-9))

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SIND ACT No. XXVIII OF 1952.

[THE SIND CONTROL OF GOONDAS ACT, 1952.]

[22nd January, 1953]

An Act to make provision for the better control of disorderly persons commonly known as "goondas".

WHEREAS it is expedient to provide for special measures for the better control of goondas and for ancillary matters;

AND WHEREAS the Governor of Sind has, in pursuance of a proclamation made by the Governor-General under section 92-A of the Government of India Act, 1935, assumed on behalf of the Governor-General, all powers vested in or exercisable by the Provincial Legislature under the said Act;

NOW, THEREFORE, in exercise of the powers so assumed, the Governor is pleased to enact as follows:—

Short title
and extent.

1. (1) This Act may be called the Sind Control of Goondas Act, 1952.

(2) The Provincial Government may, from time to time, by notification in the *Sind Government Gazette*, extend¹ this Act to any place or area in the Province.

Definitions.

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

(i) "Code" means the Code of Criminal Procedure, 1898.

(ii) "Young person" means a person under eighteen years of age.

(iii) All expressions used in this Act shall have the meanings assigned to them in the Pakistan Penal Code, 1860, or in the Code of Criminal Procedure, 1898.

Constitution
of Tribunal.

3. All cases under this Act shall be dealt with by a Tribunal (hereinafter called the Tribunal) which shall consist of the official for the time being holding the office of the District Magistrate in charge of the place or area to which this Act applies.

¹ Extended to the whole of the Province of Sind with immediate effect *vide* G. N., H. D. No. 6053-H.C./53(II), dated 30th September 1954, *see* S. G. G., 1954, Pt. I, p. 879.

4. (1) For the purpose of conducting inquiries under this Act, the Tribunal shall have all the powers of a District Magistrate under the Code for issuing summonses and warrants, for the production of witnesses and documents, for the examination of persons complained against and witnesses, and for issuing commissions for the examination of witnesses. Powers of Tribunal.

(2) Proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of the Code.

(3) The Tribunal may keep its record in English, Urdu or Sindhi.

5. The Tribunal shall have the powers of a Court of Record for punishing contempt of its authority provided that the maximum period for which any person may be committed to prison under this provision shall be three months. Contempt Orders by Tribunal.

6. (1) The Tribunal shall not be bound to follow the rules of evidence prescribed under the Evidence Act, 1872, and may *inter alia* by written order— 1 of 1872.

(a) direct that the whole or any part of the inquiry against any person complained of shall be held *in camera* ;

(b) for reasons to be stated in the order, accept evidence on affidavit of witnesses whose presence cannot be secured without such amount of delay or expense as would in the opinion of the Tribunal be unreasonable in the circumstances of the case, or on any other ground sufficient in its opinion and connected with any matter arising in the case ;

(c) for reasons to be stated in the order, record the statement of any witness in the absence of the person complained against and his counsel, if the Tribunal is satisfied that the person complained against is deliberately evading appearance ;

(d) receive in relation to the person complained against evidence of previous conviction or previous occasions of having been bound over to keep the peace or be of good behaviour ;

(e) receive evidence of general repute in relation to the person complained against ;

(f) arrange for the evidence of any witness to be recorded at his place of residence ;

(g) direct any magistrate having jurisdiction in the area to take such steps as may be necessary to protect the life and property of any person who has given or is required to give evidence in an inquiry under this Act ;

(h) grant immunity from prosecution to any witness appearing in any inquiry under this Act, in respect of any matter relevant to the inquiry contained in his evidence ; and

(i) direct, with reference to specified portions of the record of the inquiry, that no copies or abstracts shall be made by or furnished to any person not including the person complained against.

Cognizance
of cases by
Tribunal.

7. (1) The Tribunal shall take cognizance of a case only when information in respect of a specified person is laid before it by a police officer of the area concerned, not lower in rank than a Sub-Inspector of Police, who has taken part in the investigation of the case. The information shall be signed by the officer concerned and shall briefly set out—

(a) the practices with which the person complained against is charged ;

(b) instances, with details of time and place, of such practices ;

(c) a statement of any relevant general reputation in which the said person is held and any other ground on which the information is based ; and

(d) names and other particulars of witnesses who will be produced to support the allegations contained in the information.

(2) The officer laying the information may, if he thinks fit, enclose any of the above particulars in a sealed cover and request that the same be kept secret, and the Tribunal shall order that such particulars shall not be disclosed at any stage of the inquiry except that the person complained against shall be given such particulars, before the proceedings held under this Act close, to the extent considered sufficient to enable him to defend himself. When the said particulars fall under clause (d) of sub-section (1) the name of the witnesses may not be disclosed until such time as such witnesses are produced.

Summoning
of the person.

8. On receipt of information under section 7, the Tribunal shall summon the person complained against to appear before it and shall at the same time supply him with a copy of such portion of the information as is not to be kept secret under the provisions of the preceding section :

Provided that the Tribunal may, for reasons to be recorded, in the very first instance, or at any later stage of the inquiry, instead of issuing summons or notice, issue a warrant, non-bailable or bailable in such sum as may appear to it reasonable, for the arrest of the aforesaid person and his production before the Tribunal—

(i) if it is satisfied that the said person is hiding himself to evade service of the summons, or

(ii) if he does not appear in spite of the service of the summons, or

(iii) if it is, for any other reason, satisfied that such action is necessary.

9. (1) When the person complained against appears before it, the Tribunal may take a bond from him with or without sureties for his appearance during the inquiry or when called upon, as the case may be, and may also, having regard to the nature of the information laid against him, require him to furnish a bond, with one or more sureties, in such sum as the Tribunal may think fit, to be of good behaviour until the conclusion of the inquiry, and may direct that he be detained in custody until such bond is executed, or in default of execution, until the inquiry is concluded. Appearance before Tribunal.

(2) The Tribunal may, for reasons to be recorded, instead of taking a bond for the appearance of the person complained against, order his detention, till the conclusion of the inquiry, in such prison as it thinks suitable.

10. The Tribunal shall then proceed to inquire into the truth or otherwise of the information upon which action has been taken, and for that purpose may record such evidence as may appear necessary, and shall, in all such cases, follow the procedure prescribed in the Code for conducting trials and recording evidence in summary cases, but subject to the special provisions of this Act. Proceedings before Tribunal.

11. It shall not be necessary for the Tribunal to record the evidence of any witness *de novo* by reason only of a change in its own composition. But the Tribunal may at any time summon and examine any person, who in its opinion, is capable of giving information relevant to any matter under inquiry notwithstanding that such person has already given evidence in such inquiry. No *de novo* proceedings.

12. Where two or more persons are associated together with regard to any matter covered by the allegations contained in the information respectively laid in respect of each, to an extent which Joint Proceedings.

in the opinion of the Tribunal justifies such a course, the inquiry into the matter with regard to which they are associated together may be conducted against all or any of them jointly, or against each of them separately, as the Tribunal shall think just.

Declaration
of goondas.

13. If the Tribunal is satisfied, as a result of the inquiry held under this Act, that the person complained against—

- (i) is frequently drunk and disorderly in public ; or
- (ii) is in the habit of using obscene or abusive language in public ; or
- (iii) corrupts young persons by initiating them into vices such as drinking, gambling or immoral behaviour ; or
- (iv) annoys or molests other persons, particularly women or young persons, or
- (v) does obscene acts including wilfully exposing his person in public ; or
- (vi) insults the modesty of women by using foul language or making indecent sounds or gestures, or by exposure of his person or the person of any other individual or of any object or otherwise howsoever ; or
- (vii) behaves riotously in public by entering into affrays, or otherwise howsoever ; or
- (viii) causes fear or alarm to the public or any section or member thereof, by issuing threats verbally or in writing, or by making publishing or circulating false statements, rumours or reports ; or
- (ix) indulges in criminal intimidation as defined in Section 503 of the Pakistan Penal Code, 1860 ; or
- (x) makes a livelihood, or extorts money or other property or seeks any concession or favour from any one, by any form of intimidation ; or
- (xi) defies the law generally and endangers public peace ;

it shall declare that such person is a "goonda" and shall direct that his name be publicly notified in the prescribed manner, and be placed on the prescribed list of goondas,

XLV of
1860.

14. While making a declaration under section 13, the Tribunal may take such action against the goonda, as to it may seem fit, in one or more of the following ways :—

Special
Orders
against
goondas.

(a) it may, in view of his age and antecedents, and the fact that some person of mature age, who is in a position of authority over him by virtue of relationship or otherwise, becomes responsible for his good behaviour and executes a bond or other document to the satisfaction of the Tribunal to this effect, release him after due admonition ;

(b) it may require him to furnish a bond, with one or more sureties, for such period not exceeding 2 years and in such amount as may be specified, to be of good behaviour, provided that, where he is a minor, the bond executed by a surety or sureties only may be accepted ;

(c) it may, where he fails to execute the bond or he cannot produce a surety or sureties to the satisfaction of the Tribunal, order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available or, failing that, the term of the order under the preceding sub-clause expires or until the Tribunal makes any other order about him ;

(d) it may direct that his movements shall be restricted to any place or area specified in the order ; or may direct him to report himself at such times and places and in such mode as may be specified in the order ; or it may make both the directions ; or may direct that he shall be externed from areas in which this Act is in operation ;

(e) it may direct that he shall not visit or go within surroundings, specified in the order, or, any of the undermentioned places, without the written permission of the Police Officer in charge of the Police Station within whose jurisdiction such place is situated, namely—

(i) schools, colleges and other institutions where young persons are given education or other training or are housed permanently or temporarily ;

(ii) theatres, cinemas, fairs, amusement parks and other places of public entertainment ;

(iii) public halls, restaurants, teashops and other places of public resort ;

(iv) public or private parks and gardens ;

(v) public or private playing fields and race-courses ; or

(vi) the scene of any public meeting or procession or any assemblage of the public, whether in an enclosed place or otherwise, in connection with any public event or festival or other celebrations.

Publication
of declara-
tion.

15. An order under section 13 declaring any person to be a goonda shall be published along with a statement of the order or orders if any made in respect of such person under section 14, in such manner and containing such details as may be prescribed by rules framed under this Act.

Bond under
Tribunal's
Orders.

16. (1) Every bond furnished in compliance with an order made by the Tribunal under this Act shall be in the form prescribed by the Code for a bond of the same description :

Provided that the Tribunal may direct that the sureties offered be scrutinised by a magistrate of the first class nominated for the purpose by it.

(2) The Tribunal may, where a person who has furnished a bond for his appearance makes default, direct, in addition to action under the other provisions of this Act, that a warrant which may be bailable or non-bailable as the Tribunal may direct shall be issued for the production of such person.

(3) Any surety may apply to be released from the obligations of his bond, and the Tribunal may, after such enquiry as it may deem fit, call upon the person who is bound over to furnish a fresh surety, and thereupon the provisions of sub-section (1) shall apply in relation thereto :

Provided that the surety seeking release shall not be released from his obligations unless a fresh surety has been accepted in his place or, in case no surety is furnished or accepted, he produces the person concerned before the Tribunal.

(4) The provisions of section 514 of the Code shall apply in respect of the forfeiture of bonds furnished under this Act, as if for the expression "Court" the expression "Tribunal" wherever applicable for the purpose of this Act, was substituted, and as if from sub-section (1) of the said section, the reference to a magistrate of the first class was omitted, and as if in sub-section (7) of the said section—

(i) the reference to section 106 or section 118 or section 562 of that Code was replaced by a reference to clause (b) of section 14 of this Act ; and

(ii) the reference to a bond executed in lieu of the bond under section 514-B of that Code was replaced by a reference to the proviso to clause (b) of section 14 of this Act.

(5) A breach of any order made against any person under sub-clauses (d) and (e) of section 14, or the further commission of any of the acts mentioned in section 13, or the commission of any offence which is punishable with imprisonment under any law for the time being in force and which in the opinion of the Tribunal involves or implies moral turpitude, shall amount to a breach of a bond for good behaviour which may have been furnished by him under this Act.

17. No appeal shall lie from any order made by a Tribunal, but in relation to any such order under section 5, or section 13, or section 16, the Chief Court may call for the record of the case, and if the Tribunal appears—

Revision of
Tribunal's
Orders.

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally, the Chief Court may make such direction as it may deem sufficient for the rectification of the error or omission and the Tribunal shall conduct itself accordingly.

18. If the Tribunal has reason to believe that a person against whom a warrant of arrest has been issued under section 8, has absconded, or is concealing himself, so that the warrant cannot be executed, it may—

Procedure
where a per-
son absconds
or conceals
himself.

(a) send a report to a magistrate having jurisdiction in the area where the person complained against ordinarily resides or has his property or is present, and the said magistrate shall take proceedings under sections 87, 88 and 89 of the Code, in respect of the said person and his property as if the warrant were a warrant issued by the said magistrate; or

(b) by order notified in the *Official Gazette* direct the said person to appear before it, at such place and within such period as may be specified in the order; and if the said person omits to comply with such directions, he shall, unless he proves that it was not possible for him to comply therewith and that he had at the first possible opportunity within the period sent information to the Tribunal of the reason which rendered compliance therewith impossible and of his whereabouts, be deemed to have evaded compliance with the order.

Photographs
finger prints
etc.

19. Every person, in respect of whom an order has been made under section 13 of this Act, shall, if so directed by the Tribunal present himself before such officer of the Provincial Government and at such place and time as may be specified in the order—

(i) for being photographed ;

(ii) for giving his finger impressions or, if literate, specimens of his handwriting and signature,

and such person shall allow himself to be photographed and shall affix his finger impressions as required or, as the case may be, specimens of his handwriting and signature.

Offences,
cognizable
and non-
bailable.

20. Notwithstanding anything contained in any other law for the time being in force, every offence punishable under this Act, shall, within the meaning of the Code be cognizable and non-bailable.

Bar on civil
or criminal
proceeding.

21. No proceedings taken or orders passed under this Act, shall be called in question otherwise than as provided hereunder, and no civil or criminal proceedings shall be instituted against any person for anything done or intended to be done under this Act, or against any person for any loss or damage caused to, or in respect of, any property as a result of an act done or intended to be done under this Act.

Effect of
other laws
and enact-
ments.

22. The provisions of this Act, and any order made or action taken under this Act, shall have effect notwithstanding anything inconsistent therewith contained in any enactment, other than this Act, for the time being in force, and in any instrument having effect by virtue of any such enactment other than this Act.

Penalty for
breaches of
orders.

23. (1) A breach of any order made under sub-clauses (b), (d) and (e) of section 14 shall be punishable with imprisonment of either description which may extend to two years.

(2) A breach of any order made or direction given under this Act not otherwise provided for shall be punishable with imprisonment of either description which may extend to one year or with fine or with both.

(3) Any person who abets the commission of the acts mentioned in section 13, or the breach of any order made under this Act, or who (not being the wife) harbours a goonda, shall be liable to be declared a goonda and dealt with as such under the provisions of this Act.

24. If a goonda has been of good behaviour during the period of bondage or imprisonment his name may, on application to the Tribunal, be ordered by it to be removed from the list of goondas and the removal shall be notified in the same way as prescribed under section 15.

25. The record of the proceedings held by the Tribunal or any portion thereof for which the person laying the information or conducting the prosecution before the Tribunal, has claimed privilege before the Tribunal or which he has requested for being kept secret shall not be available for inspection by any one during the inquiry before the Tribunal or during any revision proceedings before the Chief Court. Secret record.

26. The Provincial Government may by an order in writing transfer a case from one Tribunal to another in the Province. Transfer of cases.

27. (1) The Provincial Government may make rules¹, not inconsistent with the provisions of this Act, for carrying out the purposes of this Act. Rules.

(2) Without prejudice to the generality of the power conferred by sub-section (1), such rules may provided for—

(a) the lists to be maintained in which the names of goondas are to be registered, and the manner of such registration ;

(b) the manner in which the names of persons who are declared to be goondas shall be publicly notified ;

(c) the manner in which an order under sub-clause (d) of section 14 shall operate.

Gul Hayat Institute

¹ For Rules see G. N., H. D., No. 6053-HC/51 (III), dated 10th June 1953.