

**CHAPTER 125**

**THE HABITUAL CRIMINALS (PREVENTIVE  
DETENTION) ACT**

**Arrangement of Sections**

Section

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**CHAPTER 125****THE HABITUAL CRIMINALS (PREVENTIVE DETENTION) ACT**

*Commencement:* 13 September, 1951

**An Act to provide for preventive detention for habitual criminals.****1. Power of court to impose sentence of preventive detention**

(1) Where a person, who in the opinion of the court, is not less than thirty years of age—

- (a) is convicted of an offence punishable with imprisonment for a term of two years or more; and
- (b) has been convicted on at least three previous occasions since reaching, in the opinion of the court, the age of sixteen years, of offences punishable with such a sentence, and was on at least two of those occasions sentenced to imprisonment,

then, if the court is satisfied that it is expedient for the protection of the public that the person should be detained in custody for a substantial time, the court may pass on the person, in addition to or *in lieu* of any other sentence, a sentence of preventive detention for such term of not less than five nor more than fourteen years as the court may determine; but where a sentence of preventive detention is passed in addition to any other sentence, the total term of preventive detention and imprisonment shall not exceed fourteen years.

- (2) No person shall be sentenced to preventive detention unless—
  - (a) the Director of Public Prosecutions either in person or in writing asks that such a sentence be imposed; but no such request shall be deemed to fetter the discretion of the court as to whether or not such a sentence should be imposed; and
  - (b) at least three days' notice in writing has been given to the offender that it is intended to prove his or her previous convictions.

(3) Without prejudice to any right of the offender to tender evidence as to his or her character and repute, evidence of character and repute may, if the court thinks fit, be admitted as evidence on the question whether it is expedient for the protection of the public that the offender should be detained in custody for a substantial time.

**2. Imprisonment in certain cases may be commuted to preventive detention**

When a person has been sentenced to imprisonment for a term of three years or more and he or she appears to the President to have been a habitual criminal, the President may, at any time after two years of the term of imprisonment have expired, commute the whole or any part of the residue of the sentence to a sentence of preventive detention, so, however, that the total term of the sentence when so commuted shall not exceed the term of imprisonment originally awarded.

**3. Commencement of preventive detention**

A sentence of preventive detention passed in addition to a term of imprisonment shall take effect immediately on the determination of the sentence of imprisonment, whether that sentence is determined by effluxion of time or by order of the President.

**4. Establishment of special prisons or prison camps**

(1) The President may establish special prisons or prison camps for persons undergoing sentences of preventive detention, and all such persons shall normally be detained in them and shall be employed at such work as the Commissioner General of Prisons shall determine; but—

- (a) the court, at the time of passing a sentence on a person of preventive detention, or the President, at any time, may, if of the opinion that the offender is not a suitable person to live in a special prison or camp, order that offender to be confined during his or her term of detention in a prison established under the Prisons Act, in which case he or she shall be treated as a prisoner undergoing imprisonment; and
- (b) any person who escapes from a special prison or camp while undergoing a sentence of preventive detention shall, when recaptured, serve, in a prison established under the Prisons Act, a part or the whole of the remainder of his or her sentence undergoing a term of imprisonment as the President may determine.

(2) All the provisions of the Prisons Act which relate to

- (a) the admission, control, release and discharge of prisoners;

- (b) offences by and in relation to prisoners;
- (c) visits to and communications with prisoners;
- (d) prison ministers and visiting justices; and
- (e) the disposal of estates of deceased prisoners,

shall apply to such special prisons and prison camps and the persons detained in them; but the Commissioner General of Prisons shall be entitled, at his or her discretion, to relax the provisions of any rules made under that Act relating to visits to and communications with prisoners.

## **5. President to review sentences**

- (1) The President—
  - (a) may, at any time, whether on the application of the Commissioner General of Prisons or otherwise; and
  - (b) shall once at least in every two years,

during which a person is detained in custody under a sentence of preventive detention, take into consideration the condition, history and circumstances of that person with a view to determining whether that person shall be placed out on licence, and, if so, on what conditions; and in coming to any conclusion the President may seek the advice of any person or body of persons whom he or she is of the opinion may be of assistance to him or her.

(2) The President may at any time discharge on licence a person undergoing preventive detention if satisfied that there is reasonable probability that the person will abstain from crime and live a useful and industrious life or that the person is no longer capable of engaging in crime, or that for any other reason it is desirable to release him or her from confinement.

(3) A person so discharged on licence may be discharged subject to such conditions as may be deemed appropriate.

(4) The Commissioner General of Prisons shall report periodically to the President on the conduct of persons undergoing preventive detention, and their past history and probable behaviour on release.

(5) A licence under this section shall be substantially in the same form as a licence under section 86 of the Prisons Act, due regard being had to any conditions imposed under subsection (3) of this section.

( 6)Subsections ( 5), ( 6), (7), (8), (9), ( 10), ( 11) and (12) of section 86 of the Prisons Act shall apply to licences issued under this section with the following modifications—

- (a) for any reference to the Commissioner General of Prisons occurring in those subsections there shall be substituted a reference to the President; and
- (b) section 86(6) of that Act shall have effect as if the following were added at the end of it  
“and during the unexpired portion the person may be treated as a prisoner undergoing imprisonment or preventive detention for such period or periods as the President may determine”.

## **6. Discharge of person undergoing sentence of preventive detention**

Notwithstanding section 5, the President may, at any time, discharge absolutely any person sentenced to preventive detention, whether that person has been released on licence or is still in confinement.

## **7. Rules**

(1) Rules made under the Prisons Act, where applicable, shall unless otherwise provided, apply to persons undergoing sentence of preventive detention and to special prisons and prison camps established under section 4.

(2)The President may make rules under this Act for any of the following purposes in respect of such persons and places—

- (a) the safe custody, management, organisation, hours, mode and kind of labour and employment, clothing, maintenance, instruction, discipline, treatment, restraint, correction and discharge of prisoners;
- (b) the provision of a suitable diet and dietary scale for prisoners according to their age, state of health and kind of punishment being suffered; and prescribing conditions under which such diet and scale may be varied;
- (c) the construction, description, equipment and supervision of cells and wards;
- (d) the selection and terms of appointment of convict leaders; and
- (e) anything which by this Act may or is to be prescribed, and generally for the effective administration of the Act, or any

amendments to it, for the good management and government of special prisons and prison camps established under section 4 and the prisoners in them whether in, about or beyond the limits of the special prisons or camps.

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**History:** Cap. 112 (Revised Edition, 1964); Cap. 118 (Revised Edition, 2000)

**Cross Reference**

Prisons Act, Cap. 325

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