

THE POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922

SYNOPSIS

	Page
<i>Introduction</i>	26.433
Sections	
1. Short title, extent and commencement	26.434
2. Definition	26.435
3. Penalty for causing disaffection, etc.	26.435
4. Saving of acts done by police associations and other persons for certain purposes	26.436
5. Sanction to trial of offences by subordinate Courts	26.436
6. Trial of cases	26.437
<i>THE SCHEDULE</i>	26.438

THE POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922

INTRODUCTION

Several attempts had been made by means of threat, intimidation and otherwise to induce members of police-force to refrain from doing duty and to spread disaffection among them. Neither the Indian Penal Code (45 of 1860) nor the Indian Police Act, 1861 (5 of 1861) contains provisions to meet such evils. In order to curb such evils it became necessary to enact a separate legislation. To achieve this objective the Police (Incitement to Disaffection) Bill was introduced in the Legislature.

STATEMENT OF OBJECTS AND REASONS

In view of the attempts that have been made and are being made (a) by means of threats, intimidation and otherwise to induce members of the police-force to refrain from doing duty, and (b) to spread disaffection among them, the Government of India have for some time had under consideration the question of penalising such attempts. Neither the Indian Penal Code nor the Indian Police Act, 1861, contains provisions to meet this evil. A prosecution could doubtless in certain cases be instituted under section 29 of the India Police Act, 1861, read with the abetment sections of the India Penal Code, but section 29 of the Police Act was designed to meet ordinary breaches of discipline and would not cover many dangerous forms of tampering with the police. Moreover, the maximum punishment permissible under that section *viz.*, three months' rigorous imprisonment is manifestly inadequate for serious offences of this nature. The Government of India are accordingly of opinion that the authorities should be given additional means of dealing with this form of crime, and it is proposed, therefore, to enact the attached Bill, which has been framed on the lines of section 3 of the English Police Act of 1999 (9 and 10 Geo. V. Ch. 46).

ACT 22 OF 1922

The Police (Incitement to Disaffection) Bill having been passed by the Legislature received its assent on 5th October, 1922. It came on the Statute Book as THE POLICE (INCITEMENT TO DISAFFECTION) ACT, 1920 (22 of 1920) (*Came into force on different dates in Union Territories and States*).

LIST OF AMENDING ADAPTATION ORDERS

1. The Government of India (Adaptation of Indian Laws) Order, 1937.
2. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
3. The Adaptation of Laws Order, 1950.
4. The Adaptation of Laws (No. 3) Order, 1956.

THE POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922

(22 of 1922)

[5th October, 1922]

An Act to provide a penalty for spreading disaffection among the police and for kindred offences.

WHEREAS it is expedient to penalize the spreading of disaffection among the police and other kindred offences; It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Police (Incitement to Disaffection) Act, 1922.

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

(3) It shall come into force in any State or part of a State on such date³ as the State Government may, by notification in the Official Gazette, direct.

STATE AMENDMENTS

Andhra Pradesh.—In section 1 in sub-section (2), after the expression “except the territories which immediately before the 1st November, 1956 were comprised in Part B States” add the words,³ other than the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956”.

[*Vide* Andhra Pradesh Act 23 of 1958, sec. 3 and Sch. (1-2-1960)]

Gujarat.—Same as in Maharashtra.

[*Vide* Gujarat Act of 11 of 1960, sec. 87 (w.e.f. 1-5-1960).]

Madhya Pradesh.—In section 1—

(i) in sub-section (2), after the words ‘Part B States’, add the words ‘other than the Madhya Bharat and Sironja regions of the State of Madhya Pradesh’;

(ii) for sub-section (3), substitute the following sub-section, namely:—

“(3) It shall be in force in all such areas in Madhya Pradesh in which it was in force immediately before the commencement of Madhya Pradesh Second Extension

1. Subs. by the A.O. 1950, for sub-section (2).

2. Subs. by the A.O. 1956, for “Part B States”.

3. Came into force in Assam on 25-1-1923 (*vide* Assam Gazette, 1923, Pt. II, p. 113); in Himachal Pradesh on 1-6-1974 (*vide* H.P. Gazette, 1974, Pt. I, p. 1144); in Punjab on 13-3-1930 (*Vide* Punjab Gazette, 1930, Pt. I, p. 342); in Bihar and Orissa (including the Santhal Parganas) on 15-5-1930 (*vide* Bihar and Orissa, Gazette, Extra., 1930); in the Bombay Presidency on 5-6-1930); (*vide* Bombay Gazette, 1930, Pt. I, p. 1394); in the Union Territory, of Andaman and Nicobar Islands on 1-5-1966 (*vide* Andaman and Nicobar Gazette, Extra., 1966); in the Union Territory of Delhi on 13-3-1975 (*vide* Delhi Gazette, Extra., 1975, Pt. IV, p. 75); in Madhya Bharat and Sironja regions of Madhya Pradesh on 1-1-1966 (*vide* M.P. Gazette, 1965, Pt. I, p. 1818); in Madhya Pradesh on 2-6-1979 (*vide* M.P. Gazette, Extra., p. 1927); in the Union Territory of Goa, Daman and Diu on 1-2-1965 (*vide* Goa Gazette, 1965, Sr. I, p. 3); in the Union Territory of Laccadive, Minicoy and Amindivi Islands on 1-10-1967 (*vide* Gazette of India, Extra, Pt-II, Sec. 3 (ii), p. 1527); in the Union Territory of Pondicherry on 1-8-1968 (*vide* Pondicherry Gazette, Extra., 1968); in West Bengal on 15-9-1976 (*vide* Calcutta Gazette, Extra.; 1976, Pt. I. p. 2755).

of Laws Act, 1961 (40 of 1961), and shall come into force in other areas, on such date as the State Government may, by notification, appoint".

[*Vide* Madhya Pradesh Act 40 of 1961 First Schedule, Part A, Item 5.]

Maharashtra, Gujarat.—In its application to the State of Maharashtra in section 1.—

(i) To sub-section (2), add the following proviso:—

"Provided that on the commencement of the Police (Incitement to Disaffection) (Bombay Extension and Amendment) Act, 1958, it shall extend to the Saurashtra and Hyderabad areas of the State of Bombay".

(ii) To sub-section (3), add the following proviso:—

"Provided that on the commencement of the Police (Incitement to Disaffection) (Bombay Extension and Amendment) Act, 1958, it shall come into force in that part of the Saurashtra area of the State of Bombay in which the Police (Incitement to Disaffection) Act, 1922, as modified and applied to that area by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948, was in force immediately before such commencement."

[*Vide* Bombay Act 77 of 1958, sec. 3 (7-10-1958): Act 11 of 1960, sec. 87 (1-5-1960)]

Meghalaya.—In section 1 omit the sub-section (3)

[*Vide* Meghalaya A.L.O. (No. 1) of 1974, Sch. (w.r.e.f. 21-1-1972)]

Tamil Nadu.—In its application to the added territories in the State of Madras, in sub-section (2) of section 1, omit 'other than the territories specified in sub-section (1) of section 3 of the State Reorganisation Act, 1956'.

[*Vide* Madras (Ad Terr.) A.L.O. 1961]

2. Definition.—In this Act, the expression "member of a police-force" means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule.

3. Penalty for causing disaffection, etc.—Whoever, intentionally causes or attempts to cause, or does any act which he knows is likely to cause disaffection towards ¹*** the Government establishment by law in ²[India] amongst the members of a police-force, or induces or attempts to induce or does any act which he knows is likely to induce, any member of a police-force to withhold his services or to commit a breach of discipline, shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.—Expression of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

STATE AMENDMENT

Maharashtra.—(a) Section 3 renumbered as sub-section (1) thereof and in sub-section (1) so renumbered for the portion beginning with the words "shall be punished" and ending with the words "or with both" the following portion substituted, namely:—

1. The words "His Majesty or" omitted by the A.O. 1950.

2. Subs. by the A.C.A.O. 1948, for "British India or British Burma".

"shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees or with both:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and such time shall not be less than five hundred rupees".

(b) After sub-section (1) of section 3 add the following sub-section (2), namely:—

"(2) All offences under this Act shall be cognisable and non-bailable".

[Vide Maharashtra Act 23 of 1983, sec. 2 (w.r.e.f. 18-1-1983)]

COMMENTS

Penalty for intentionally causing disaffection towards the Government establishment by law amongst the members of a police-force or for inducing any member of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment up to six months, or fine up to two hundred rupees, or both.

4. Saving of acts done by police associations and other persons for certain purposes.—Nothing shall be deemed to be an offence under this Act which is done in good faith.—

- (a) for the purposes of promoting the welfare or interest of any member of a police-force by inducing him to withhold his services in any manner authorised by law; or
- (b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police-force as such where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of association which have been approved by the Government.

STATE AMENDMENT

Madhya Pradesh.—After section 4 insert the following section, namely:—

"4A. *Offences to be cognizable and non-bailable.*—(1) Every offence under this Act shall be cognizable and non-bailable.

(2) No bail shall be granted by any Court under this section unless prosecution has been afforded reasonable opportunity of being heard in the matter."

[Vide Madhya Pradesh Act 15 of 1981, sec. 4 (5-5-1981)]

5. Sanction to trial of offences by subordinate Courts.—No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate or, in the case of a Presidency-town, ¹[***] of the Commissioner of Police.

STATE AMENDMENTS

Andhra Pradesh.—In section 5 for the words 'of the District Magistrate or, in the case of a Presidency-town, of the Commissioner of Police', substitute 'of the District Collector or, in the case of the cities of Hyderabad and Secunderabad, of the Commissioner of Police'.

[Vide Andhra Pradesh Act 23 of 1958, sec. 3 and Sch. (1-2-1960)]

1. The words "or the town of Rangoon" omitted by the A.O. 1937.

Maharashtra.—In section 5—

- (a) after the words a Presidency-town, insert “or any other area under the charge of a Commissioner of Police”.

[Vide Bombay Act 56 of 1959, sec. 3 and Sch. (4-1-1960).]

- (b) delete the words “or on the complaint”

[Vide Maharashtra Act 23 of 1983, sec. 3 (w.r.e.f. 18-1-1983).]

Tamil Nadu.—(i) In section 5 (as amended by Andhra Pradesh Act 23 of 1958), for the words “the cities of Hyderabad and Secunderabad”, substitute the words ‘a Presidency-town.’

[Vide Madras (Added Territories) A.L.O., 1961.]

(ii) In section 5 (as amended by Andhra Pradesh Act 23 of 1958, for the words, “District Collector”, substitute the words “District Magistrate”.

[Vide Tamil Nadu Act 8 of 1964, sec. 4 and Sch. II (10-6-1964).]

COMMENTS

No Court is authorised to deal with an offence committed under this Act without the previous sanction, or on the complaint, of the District Magistrate or in the case of a Presidency town, of the Commissioner of Police.

6. Trial of cases.—(1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try an offence under this Act.

(2) Notwithstanding anything, contained in Chapter XXII of the Code of Criminal Procedure, 1898 (Act 5 of 1898), no offence under this Act shall be triable summarily.

STATE AMENDMENTS

Andhra Pradesh.—In sub-section (1) of section 6, omit the words ‘Presidency Magistrate or’.

[Vide Andhra Pradesh Act 23 of 1958, sec. 3 and Sch. (1-2-1960).]

Maharashtra.—For section 6 substitute the following section 6.

“6. *Trial of cases.*—(1) No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Metropolitan Magistrate or any Judicial Magistrate of the first class may, if he thinks fit, try in a summary way all or any of the offences under this Act, and the provisions of sections 262 to 265 (both inclusive) of the said code shall, so far as may apply to such trial:

Provided that where any case is tried summarily and the accused is convicted under this Act, no sentence of imprisonment for a term exceeding three months shall be passed by the Magistrate concerned and the provision for awarding punishment of minimum amount of fine under this Act shall not apply”.

[Vide Maharashtra Act 23 of 1983, sec. 6 (w.r.e.f. 18-1-1983).]

Maharashtra, Gujarat.—After section 6, insert the following section:—

“7. *Repeal and saving.*—The Police (Incitement to Disaffection) Act, 1922, as modified and applied to the Saurashtra area of the State of Bombay by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948, is hereby repealed:

Provided that such repeal shall not affect—

- (a) the previous operation of the law so repealed, or
- (b) any punishment incurred in respect of any offence committed against any of the provisions of the law so repealed, or
- (c) any investigation, legal proceeding or remedy in respect of such punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such punishment may be imposed as if this Act had not been passed."

[Vide Bombay Act 77 of 1958, sec. 5 (7-10-1958); Act 11 of 1960, sec. 89 (1-5-1960)]

Punjab, Haryana, Chandigarh.—In section 6, in its application to the State of Punjab (including Haryana and Chandigarh), for the words 'Magistrate of the first class', substitute the words 'Judicial Magistrate of the first class'.

[Vide Punjab Act 25 of 1964, sec. 2 and Sch. (2-10-1964)]

Tamil Nadu.—In its application to territories added to Tamil Nadu by C.A. 56 of 1959, section 6, before "Magistrate of the first class", insert the words 'Presidency Magistrate or' which were omitted by Andhra Pradesh Act 23 of 1958.

[Vide Madras (Added Territories) A.L.O., 1961 (w.r.e.f 1-4-1960)]

THE SCHEDULE (See section 2)

Year	No.	Short Title
<i>Acts of the Governor-General in Council</i>		
1859	XXV	The Madras District Police Act, 1859.
1861	V	The Police Act, 1861.
¹ [***]	¹ [***]	¹ [***]
1888	III	The Police Act, 1888.
1892	V	The Bengal Military Police Act, 1892.
<i>Madras Act</i>		
1888	III	The Madras City Police Act, 1888
<i>Bombay Acts</i>		
1890	IV	The Bombay District Police Act, 1890
1902	IV	The City of Bombay Police Act, 1902
<i>Bengal Acts</i>		
1866	II	The Calcutta Suburban Police Act, 1866.
1866	IV	The Calcutta Police Act, 1866.
1890	III	The Calcutta Port Act, 1890.
1920	II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.
² [***]	² [***]	² [***]

1. The entry relating to the Burma Military Police Act, 1887 omitted by the A.C.A.O. 1948.
2. The entry relating to the Rangoon Police Act, 1899 omitted by the A.C.A.O. 1948.

Year	No.	Short Title
		<i>Assam Act</i>
1920	I	The Assam Rifles Act, 1920
		<i>Regulation by the Governor-General in Council.</i>
1888	II	The Andaman and Nicobar Islands Military Police Regulation, 1888.

STATE AMENDMENTS

Maharashtra, Gujarat.—I. In the Schedule, under the heading 'Bombay Acts', for the entries—

'1890	IV	The Bombay District Police Act, 1890
1902	IV	The City of Bombay Police Act, 1902'

Substitute—

"1951	XXII	The Bombay Police Act, 1951"
[Vide Bombay Act 21 of 1954, sec. 3 and Sch. II (8-4-1954); Act 11 of 1960, sec. 87.]		

II. In the Schedule, under the heading 'Bombay Acts', add the following:—

"1951	XXXVIII	The Bombay State Reserve Police Force Act, 1951"
-------	---------	--

[Vide Bombay Act 77 of 1958, sec. 6 (7-10-1958); Act 11 of 1960, sec. 87.]