

Bombay Act XVI of 1932
Bombay Special (Emergency) Powers
Act, 1932

PREFACE.

The Bombay Special (Emergency) Powers Act, 1932 (Bom. XVI of 1932), has been supplemented by India Act IX of 1933 and partly amended and repealed by Bom. XXVII of 1935.

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BOMBAY ACT No. XVI OF 1932.

(First published after having received the assent of the Governor-General, in the "Bombay Government Gazette" on the 16th December 1932.)

An Act to confer special powers on Government and its officers for the maintenance of the public security in case of emergency.

WHEREAS it is expedient to confer special powers upon Government and its officers for the maintenance of the public security in case of emergency; [a]especially such as is likely to arise from movements such as are commonly known as communism, terrorism and civil disobedience movement [a] and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the **Bombay Special (Emergency) Powers Act, 1932.**

Short title, commencement, extent and operation.

[b](2) It shall remain in force up to the 31st December 1938.

(3) This Chapter extends to the whole of the Presidency of Bombay and the Governor in Council may by notification in the *Bombay Government Gazette* extend all or any of the remaining provisions of this Act to such district or area as may be specified in the notification.

(4) This Chapter shall come into operation at once and the Governor in Council may by notification in the *Bombay Government Gazette* direct that all or any of the remaining provisions of this Act shall

[a—~~a~~] These words were inserted by Bom. XXVII of 1935, s. 2.

[b] This sub-section was substituted for the original sub-section by Bom. XXVII of 1935, s. 3.

(Chapter I—Preliminary. Sec. 2.
Chapter II—Special Powers. Sec. 3.)

come into operation in any district or area to which they have been extended on such date as may be appointed in the notification.

Definitions.

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

- (1) "The Code" means the Code of Criminal Procedure, 1898; and
- (2) "District Magistrate" means, in the case of the City of Bombay, the Commissioner of Police.

CHAPTER II.

SPECIAL POWERS.

Power to arrest and detain suspected persons.

3. (1) Any officer of Government authorised in this behalf by general or special order of the Governor in Council may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any powers and means which may be exercised or used in making an arrest, with or without warrant, under the Code, may be exercised and used.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Governor in Council by the officer so making or so directing the arrest, as the case may be, who shall forward with his report a written record of the statement, if any, made by the person so arrested, and such officer may, by order in writing, commit any person so arrested to such custody as the Governor in Council may, by general or special order, specify in this behalf;

Provided that no person shall, unless the Governor in Council by special order otherwise directs, be so detained in custody for a period exceeding fifteen days;

(Chapter II—Special Powers. Sec. 4.)

Provided further that no person shall be so detained in custody for a period exceeding two months.

4. (1) The Governor in Council, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, and after having taken into consideration the record in writing made or caused to be made by the District Magistrate of the statement, if any, made by such person, may, by order in writing, give any one or more of the following directions, namely, that such person—

Power to control suspected persons.

- (a) shall not enter, reside or remain in any area specified in the order ;
- (b) shall reside or remain in any area specified in the order ;
- (c) shall remove himself from, and shall not return to, any area specified in the order ;
- (d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the Governor in Council by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

(4) The Governor in Council shall, subject to the provisions of section 21 of the Bombay General Clauses Act, 1904, so far as conveniently may be, at intervals of six months take into consideration and review any orders in force made or deemed to have been made under sub-section (1) and when in the opinion of the Governor in Council it is compatible with the public safety or peace to

(Chapter II—Special Powers. Secs. 5-8.)

cancel or modify any of such orders, the Governor in Council shall cancel or modify any such orders accordingly. Any decision of the Governor in Council that any such order can or cannot be cancelled or modified or as to the manner in or the extent to which any such order can be modified shall be final and conclusive.

Power to prohibit or limit access to certain places.

5. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary in the interests of the public safety or peace, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

Power to prohibit or regulate traffic.

6. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary in the interests of the public safety or peace, traffic over any road, pathway, bridge, waterway or ferry.

Power to regulate means of transport.

7. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

Power to control posts and telegraphs.

8. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal

(Chapter II—Special Powers. Secs. 9–10.)

article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

9. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may—

Power to regulate the use of railways and vessels.

- (a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;
- (b) require that any specified persons or classes of persons or persons proposing to travel to specified destinations, or any specified goods or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;
- (c) exclude or eject any passenger from any train or vessel;
- (d) stop, or prohibit the stopping of, trains or vessels at any station; or
- (e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

10. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Power to secure reports of public meetings.

Explanation.—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and

(Chapter II—Special Powers. Secs. 11–12.)

notwithstanding that admission thereto is restricted by ticket or otherwise.

Power to
issue search-
warrants.

11. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

- (a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Act or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made ;
- (b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause ;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

General
power of
search.

12. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of—

- (a) ascertaining whether it is necessary or expedient to exercise such power ; or
- (b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with ; or
- (c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

(Chapter II—Special Powers. Secs. 13-16.

Chapter III—Special provisions against unlawful instigation of non-payment of certain liabilities. Sec. 17.)

13. (1) If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto.

Power to give effect to orders if disobeyed.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under sub-section (1).

14. Whoever intentionally disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Penalty for disobeying order under section 4.

15. Subject to the provisions of section 14, whoever intentionally disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disobeying other orders under this Chapter.

16. (1) The Governor in Council may invest the District Magistrate with the powers of the Governor in Council under sub-section (1) of section 4.

Delegation of powers.

(2) The Governor in Council may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

CHAPTER III.

SPECIAL PROVISIONS AGAINST [*]UNLAWFUL INSTIGATION OF NON-PAYMENT[*] OF CERTAIN LIABILITIES.

17. (1) The Governor in Council may, by notification in the *Bombay Government Gazette*,

Power to declare notified areas

[a-a] These words were substituted for the original words "Illegal Refusal of the Payment" by Bom. XXVII of 1935 s. 4.

(Chapter III—Special provisions against
unlawful instigation of non-payment of
certain liabilities. Secs. 18-20.)

and notified
liabilities.

declare that any district or area shall be a notified area for the purposes of this Chapter.

(2) The Governor in Council may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to Government or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

Punishment
for unlawful
instigation
to the non-
payment
of notified
liability.

18. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

[*]Explanation.—Any words or acts intended to assist by lawful means the redress of any grievance relating to a notified liability shall not be an offence under this section merely because they result in or may lead to the non-payment or deferring payment of such notified liability.

Special rule
of procedure.

19. No Court shall take cognizance of any offence punishable under section 18 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf.

[a] This explanation was added by Bom. XXVII f 1935 s. 5.

(Chapter III—Special provisions against unlawful instigation of non-payment of certain liabilities. Sec. 20—contd.

Chapter IV—Supplemental. Secs. 21–23.)

20. (1) Any local authority to which an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

Power to collect an arrear of a notified liability as an arrear of land-revenue.

(2) Nothing in this section shall prevent any local authority to which an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the local authority on whose behalf the Collector has realised it.

CHAPTER IV.

SUPPLEMENTAL.

21. No Court other than a court of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Jurisdiction.

22. Notwithstanding anything contained in the Code, any offence punishable under this Act [a] except an offence punishable under section 18 [a] shall be cognizable and any offence punishable under section 14 [a] [a] shall be non-bailable.

Offences under the Act to be cognizable and non-bailable.

23. Notwithstanding anything contained in the Code, a Presidency Magistrate or a Magistrate of the First Class, in the trial of an offence under this Act, may, in his discretion, follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Procedure for trial of offences.

[a-a] These words were added, and the word and figures " or 18 " were omitted by Bom. XXVII of 1935, a. 6.

(Chapter IV—Supplemental. Secs. 24-27.)

Power of court to disallow adjournments.

24. In the trial of an offence under this Act, a court shall not be bound to adjourn the trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice.

25. [*Repealed*].—Repealed by Bom. XXVII of 1935, s. 7.

Powers of courts to deal with refractory accused.

26. (1) Where any accused, in a trial of an offence under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it or behaves before it in a persistently disorderly manner, the Court, may at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial of an offence under this Act shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Special rule of evidence.

27. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial of an offence under this Act if such person is dead or cannot be found or is incapable of giving

1 of
1872

(Chapter IV—Supplemental. Secs. 28–32.)

evidence, and the court is [*]for reasons to be recorded in writing[*] of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.

28. The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act.

Application
of ordinary
law.

[^u]29. Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

Jurisdiction
barred.

30. Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Act.

Operation of
other penal
laws not
barred.

31. Anything done or deemed to have been done in pursuance of any provision of the Special Powers Ordinance, 1932, shall, where the corresponding provisions of this Act have come into operation before the expiry of the said Ordinance, be deemed to have been done in pursuance of the corresponding provision of this Act and shall have effect, and the provisions of this Act shall have effect accordingly.

Validity of
things done
under
Ordinance.

32. [*Repealed*].—Repealed by Bom. XXVII of 1935, s. 9.

33. [*Repealed*].—Repealed by Bom. XXVII of 1935, s. 9.

[a-a] These words were inserted by Bom. XXVII of 1935, s. 8.

[b] Section 29 shall have effect as if it had been enacted by the Indian Legislature, vide Act IX of 1933, s. 3.