

## ORISSA ACT VI OF 1949.

## THE ORISSA MAINTENANCE OF PUBLIC ORDER (AMENDMENT) ACT, 1949.

[Received the assent of the Governor-General on the 30th May 1949, first published in an extraordinary issue of the Orissa Gazette, dated the 2nd June 1949]

AN ACT FURTHER TO AMEND THE ORISSA MAINTENANCE OF PUBLIC ORDER ACT, 1948.

WHEREAS it is expedient further to amend the Orissa Maintenance of Public Order Act, 1948, in the manner hereinafter appearing ;

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Orissa Maintenance of Public Order (Amendment) Act, 1949.

(2) It shall come into force at once. \*

Amendment of section 2 Orissa Act IV of 1948.

2. In section 2 of the Orissa Maintenance of Public Order Act, 1948 (hereinafter referred to as the said Act),—

(i) after sub-section (2) the following sub-section shall be inserted, namely :—

“(3) When any order is made under sub-section (1) by an officer or authority empowered under section 18 or by the District Magistrate under sub-section (2), that officer or authority or the District Magistrate, as the case may be, shall forthwith report the fact to the Provincial Government together with the grounds on which the order has been made and such other particulars as in the opinion of such officer or authority or the District Magistrate, have a bearing on the necessity for or expediency of the order.”

(ii) sub-sections (3), (4), (5), (6) and (7) shall be re-numbered as sub-sections (4), (5), (6), (7) and (8) respectively ;

(iii) in sub-section (4) as so re-numbered, before the word, figure and brackets “ sub-section (1) ” the words, letters and brackets “ clauses (b), (c), (d), (e), (f) and (g) of ” shall be inserted ;

(iv) for the word, figure and brackets “ sub-section (6) ” wherever they occur and for the word, figure and brackets “ sub-section (3) ” in sub-section (8) as so re-numbered, the words, figures and brackets “ sub-section (7) ” and “ sub-section (4) ” shall be respectively substituted.

Substitution of new section for section 3, Orissa Act IV of 1948.

3. For section 3 of the said Act, the following section shall be substituted, namely :—

“ 3. (1) As soon as may be after a person is detained in pursuance of an order made under clause (a) of sub-section (1) of section 2, the authority making the order may, on application of the person affected by the order, communicate to him, so far as such communication can be made without disclosing facts, which the said authority considers to be against the public interest to disclose, the grounds on which the order

\* NOTE :—Extended to all the partially-excluded areas of the Province of Orissa by notification No. 2017-C. dated the 10th June 1949 (vide extraordinary issue of the Orissa Gazette dated the 10th June 1949).

has been made and such other particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government against the order; and such person may, within such time as may be specified by the Provincial Government make a representation in writing to them against the order and it shall be the duty of the Provincial Government to inform him of his right to make such representation and to afford him opportunity of doing so :

Provided that neither the said order of detention nor the detention of the said person hereunder shall be deemed to be invalid or unlawful or improper on the ground of any defect, vagueness or insufficiency of the communication made to such person under this section.

(2) After the receipt of the representation referred to in sub-section (1), or in case no representation is received, after the expiry of the time fixed therefor, the Provincial Government shall place before the Advisory Council constituted under sub-section (3) the grounds on which the order has been made and in case such order has been made by an authority or officer subordinate to them, the report made by him under sub-section (3) of section 2 and the representation, if any, made by the person concerned.

(3) The Provincial Government shall constitute an Advisory Council whenever necessary and it shall consist of not less than three members one of whom shall be its Chairman. The Chairman and the members of the Council shall be appointed by the Provincial Government.

(4) The Advisory Council shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Provincial Government or from the person concerned as it may deem necessary, submit its report to the Provincial Government.

(5) After considering the report of the Advisory Council the Provincial Government may confirm, modify or cancel the order made under sub-section (1) of section 2."

Substitution  
of new  
section for  
section 4,  
Orissa Act  
IV of 1948.

4. For section 4 of the said Act, the following section shall be substituted, namely :—

" 4. (1) An order made under sub-section (1) of section 2 shall be in force for a period not exceeding six months from the date on which it is made unless earlier revoked by the authority making the order.

(2) If in the opinion of the Provincial Government it is necessary or expedient so to do, it may at any time before the expiry of the period of six months aforesaid and after giving an opportunity to the person concerned to make any representation in writing which he may desire to make and after referring the matter to the Advisory Council constituted under sub-section (3) of section 3 and considering its report, direct that the order shall continue in force and the order as so extended shall continue for a further period of six months from the date on which but for such direction it would have ceased to be in force and thereafter if and so often as it is again extended by a further similar direction made in the same manner.

(3) The revocation of any order made under sub-section (1) of section 2 shall not prevent the making under that sub-section of a fresh order to the same effect as the order revoked."

Insertion of  
new section  
4A, Orissa  
Act IV of  
1948.

5. After section 4 of the said Act the following section shall be inserted, namely :—

"4A. (1) An order made in respect of any person under sub-section (1) of section 2 may be notified by the Provincial Government in the Gazette. If any order is so notified, any subsequent order made in respect of the said person under section 3. or section 4 shall also be notified in the Gazette.

Punishment for re-producing or publishing statements, etc., by persons against whom order of detention or restriction has been made.

(2) When any order made under sub-section (1) of section 2 and notified under sub-section (1) of this section is in force either as originally made or modified, whoever prints or otherwise reproduces, sells, distributes, publishes, or publicly exhibits or keeps for sale, distribution or publication, any document consisting of or containing—

(a) any statement, oral or written, or any sketch or cartoon, made by, or purporting to be made by, or at the instance or on behalf of, the person for whose detention the order has been made under clause (a) of sub-section (1) of section 2 ;

(b) any statement, oral or written, or any sketch or cartoon, made by, or purporting to be made by, or at the instance or on behalf of, the person, in contravention of the order made against him under clause (e) of sub-section (1) of section 2 ;

(c) any rendering, part or summary of any statement referred to in clause (a) or clause (b) or the purport of any such statement, part or summary ; or

(d) any translation of any such statement or part or summary thereof into any other language or any rendering, summary or purport of any such statement or part, in any other language, shall, on conviction, be punishable with imprisonment for a term which shall not be less than three months or more than two years and shall also be liable to a fine which may extend to one thousand rupees.

(3) The Provincial Government may, by notification, declare every copy of any document, which in its opinion, is of the description specified in sub-section (2), to be forfeited to His Majesty.

(4) If copies of any documents are declared to be forfeited to His Majesty under sub-section (3) any police officer may seize the same wherever found in the Province and any Magistrate may by warrant, authorise any police officer not being below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such document may be or may be reasonably suspected to be.

*Explanation*—Nothing in this section applies to the evidence given by any witness or to counsel in the course of any proceedings conducted in respect of any such offence or to reproduction by any officer or authority in the course of official duty."

Substitution of new section for section 9, Orissa Act IV of 1948.

6. For section 9 of the said Act, the following section shall be substituted, namely :—

“ 9. (1) If the Provincial Government is of the opinion that any employment under the Provincial Government or any employment or class of employment connected with the matters falling within List II of the Seventh Schedule to the Government of India Act, 1935 (Provincial Legislative List), is essential for purposes of public safety, the maintenance of public order or maintaining supplies or services, essential to the life of the community, it may, by notification, declare such employment or class of employment to be employment or class of employment to which this Act applies.

(2) In respect of any employment or class of employment declared under sub-section (1) to be an employment or class of employment to which this Act applies, the Provincial Government making the declaration, or an officer authorised in this behalf by that Government, may, by a general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(3) An order made under sub-section (2) shall be published in such manner as the Provincial Government or officer making the order considers best calculated to bring it to the notice of the persons affected by the order.

(4) Any person engaged in any employment or class of employment to which this Act applies, who—

(a) disobeys any lawful order given to him in the course of such employment, or

(b) without reasonable excuse abandons such employment or absents himself from work, or

(c) departs from any area specified in an order under sub-section (2) without the consent of the authority making that order,

And any employer of a person engaged in an employment or class of employment declared under sub-section (1) to be an employment or class of employment to which this Act applies, who, without reasonable cause—

(i) discontinues the employment of such persons, or

(ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment, shall be guilty of an offence under this section.

*Explanation 1*—Abandonment of employment or absence from duty by any person merely on the ground of change in his usual place of residence or merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a reasonable excuse within the meaning of clause (b).

*Explanation 2*—A person abandons his employment within the meaning of clause (b), who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

(5) Any person found guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year or with fine or with both

(6) If the person contravening any of the provisions of this section is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention."

Insertion of new section 9A, Orissa Act IV of 1948.

7. After section 9 of the said Act, the following section shall be inserted, namely :—

"9A. (1) [The Provincial Government may make rules regulating or empowering a specified authority to regulate the wages and other conditions of service of persons engaged in any employment or class of employment declared under section 9 to be an employment or class of employment to which this Act applies.

(2) When any such rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Act."

Substitution of new section for section 11, Orissa Act IV of 1948.

8. For section 11 of the said Act, the following section shall be substituted, namely :—

"11. (1) The Provincial Government may, for purpose of securing the public safety or the maintenance of public order, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally require that all matters, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order.

(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person the Provincial Government may declare to be forfeited to His Majesty every copy of any document published or made in contravention of such order and any press, as defined in the Indian Press, (Emergency Powers) Act, 1931, used in the making of such document.

Act XXIII of 1931.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both."

9. After section 11 of the said Act, the following sections shall be inserted, namely :—

Insertion of new sections 11A, 11B and 11C, Orissa Act IV of 1948.

"11A. (1) The Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, by order addressed to a printer, publisher or editor or to printers, publishers and editors generally—

(a) prohibit or regulate the making, printing or publishing of any newspaper, periodical, leaflet, or other document or class of documents, or of any matter relating to a particular subject or class of subjects ;

(b) prohibit or regulate the use of any press as defined in the Indian Press (Emergency Powers) Act, 1931.

XXIII of  
1931.

(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to His Majesty every copy of any document made, printed or published in contravention of such order, and any press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making of such document or in contravention of the said order.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

11B. (1) The Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, by general or special order prohibit or regulate the sale, distribution, circulation, or possession of any newspaper, periodical, leaflet, or other document or class of documents, or of any matter relating to a particular subject or class of subjects.

(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to His Majesty every copy of any document sold, distributed, circulated, or possessed in contravention of such order.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

11C. (1) Save as otherwise expressly provided in this Act, every authority, officer or person who makes any order in pursuance of any of the provisions of the Act shall—

(a) in the case of an order of a general nature or affecting a class of persons, publish such order in the Gazette ;

(b) in the case of an order affecting any individual corporation or firm serve or cause the order to be served in the manner provided for the service of summons in the Code of Civil Procedure, 1908 ; and

(c) in the case of an order affecting an individual person serve or cause the order to be served on that person—

(i) personally by delivering or tendering to him the order, or

(ii) by post, or

(iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain

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(2) If in the course of any judicial proceedings a question arises whether a person was duly informed of an order made in pursuance of any provision of this Act, compliance with clause (b) or (c) of sub-section (1), or in a case to which clause (a) of sub-section (1) applies, the notification containing the order shall be conclusive proof that he was so informed, but a failure to comply with sub-section (1)—

(i) shall not preclude proof by other means that he had information of the order ;

(ii) shall not affect the validity of the order. ”

10. In section 12 of the said Act,—

Amendment  
of section 12,  
Orissa Act  
IV of 1948.

(i) the words “or sale or distribution or circulation or publication or possession within” in sub-section (1) shall be omitted ; and

(ii) the words “sold, distributed, circulated, published or possessed” in sub-section (2) shall be omitted.

Insertion of  
new sections  
15A, 15B,  
15C, and  
15D, Orissa  
Act IV of  
1948.

11. After section 15 of the said Act, the following sections shall be inserted, namely :—

“15A. (1) If as respects any place or class of places the Provincial Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, the Provincial Government may by order declare that place, or, as the case may be, every place of that class to be a protected place ; and thereupon, for so long as the order is in force such place or every place of such class, as the case may be, shall be protected place for the purpose of this Act.

(2) No person shall, without the permission of the Provincial Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any protected place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over a protected place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Provincial Government.

(4) Any police officer, or any other person authorised in this behalf by the Provincial Government, may search any person entering, or seeking to enter, or being on or in, or leaving, a protected place, and any vehicle, vessel, animal or article brought in by such person and may, for the purpose of the search, detain such person, vehicle, vessel, animal and article :

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(5) If any person is in a protected place in contravention of this section, then without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Provincial Government.

(6) If any person is in a protected place in contravention of any of the provisions of this section, he shall be punishable

with imprisonment for a term which may extend to three years or with fine or with both.

15B. (1) If the Provincial Government considers it necessary or expedient to regulate the entry of persons into any area, the Provincial Government may, without prejudice to any other provision of this Act, by order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Act.

(2) On and after such day as may be specified in, and subject to any exemptions for which provisions may be made by, an order made under sub-section (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any police officer, or any other person authorised in this behalf by the Provincial Government may search any person entering or seeking to enter, or being on or in, or leaving, a protected area, and any vehicle, vessel, animal or article brought in by such person, and may for the purpose of the search, detain such person, vehicle, vessel, animal and article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer on duty in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

15C. Any person who effects or attempts to effect entry into a protected place or protected area—

(a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting, or preventing or controlling access to, such place or area, or

(b) after taking precautions to conceal his entry or attempted entry from any such person, shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

15D. (1) Without prejudice to any other provision of this Act, the Provincial Government, as respects—

(a) any place or area declared by it to be a protected place or protected area, or

(b) any other place or area in relation to which it appears to it to be necessary to take special precautions for preventing or suppressing subversive acts or for maintaining supplies and



services essential to the life of the community, may make orders for controlling or regulating the admission of persons to, and the conduct of persons in and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-section (1) in relation to any place or area may make provision—

(a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of any contravention of the provisions of this Act ;

(b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-section to report his movements while in such place or area and to observe any other condition imposed upon him by a specified authority ;

(c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity as may be specified ; and

(d) for prohibiting any person or class of persons from being in possession or control of any specified article.

(3) An order made under this section in respect of a protected place or protected area may exempt such place or area from all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, or may direct that all or any of the said provisions shall apply, subject to such modifications as may be specified in the order.

(4) An order made under this section in respect of a place or area which is not a protected place or protected area may direct that all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, shall apply to or in relation to the place or area in respect of which the order is made either without modification or subject to such modification as may be specified in the order.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both."

Insertion of  
new section  
19A. Orissa  
Act IV of  
1948.

12. After section 19 of the said Act, the following section shall be inserted, namely :—

" 19A. The Provincial Government may make rules for carrying into effect the purposes of this Act."