

THE IDENTIFICATION OF PRISONERS ACT, 1920

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SECTIONS

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THE IDENTIFICATION OF PRISONERS ACT, 1920

ACT NO. 33 OF 1920¹

[9th September, 1920]

An Act to authorise the taking of measurements and photographs of convicts and others.

WHEREAS it is expedient to authorize the taking of measurements and photographs of convicts and others; it is hereby enacted as follows: —

1. Short title and extent.—(1) This Act may be called the Identification of Prisoners Act, 1920; and² [(2) It extends³ to the whole of India except⁴ [the territories which, immediately before 1st November, 1956, were comprised in Part B States].]

STATE AMENDMENTS

Karnataka

Amendment of Central Act 33 of 1920.—In the Identification of Prisoners Act, 1920 (Central Act 33 of 1920),—

(1) in sub-section (2) of section 1, after the words and letter “Part B States”, the following words, brackets, letters and figures shall be added, namely:—

“other than the territories specified in clause (a) and clause (c) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).”;

[Vide Karnataka Act 29 of 1975, s. 4].

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

(a) “measurements” include finger impressions and foot-print impressions;

(b) “police officer” means an officer in-charge of a police-station, a police officer making an investigation under Chapter XIV of the⁵Code of Criminal Procedure, 1898 (5 of 1898), or any other police officer not below the rank of Sub-Inspector; and

(c) “prescribed” means prescribed by rules made under this Act

3. Taking of measurements, etc., of convicted persons.—Every person who has been—

1. This Act has been amended in its application to Bombay by Bombay Acts 11 of 1922, 4 of 1935, 21 of 1935, 56 of 1959 and to Maharashtra by Maharashtra Act 35 of 1970.

This Act has been extended in its application:—

(1) the whole of Madhya Pradesh by Madhya Pradesh Act 40 of 1961;

(2) Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and the Schedule;

(3) the whole of the Union territory of Lakshadweep (w.e.f.1-10-1967): vide Reg. 8 of 1965, s. 3 and the Schedule;

(4) the Union territory of Pondicherry by Act 26 of 1968, s. 3 and Schedule.

This Act has been repealed in its application to Bellary District by Mysore Act 14 of 1955.

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

3. Extended to the Union territory of Jammu and Kashmir and Union territory of Ladakh by Act 34 of 2019 s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

4. Subs. by the Adaptation of Laws (No. 3) Order, 1956, for “Part B States”.

5. See now Chapter XII of the Code of Criminal Procedure, 1973 (2 of 1974).

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or

(b) ordered to give security for his good behaviour under section 118 of the ¹Code of Criminal Procedure, 1898 (5 of 1898),

shall, if so required, allow his measurements and photograph to be taken by a police officer the prescribed manner.

4. Taking of measurements, etc., of non-convicted persons.—Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

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Amendment of Central Act 33 of 1920.—For section 4, the following sections shall be substituted, namely:—

“4. Taking of measurements or photographs of unconvicted persons.—Any person,—

(a) who has been arrested in connection with an offence punishable under section 96 of the Karnataka Police Act, 1963 or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards or in connection with an offence for the commission of which on a second or subsequent occasion enhanced penalties have been provided for under any law for the time being in force; or

(b) in respect of whom direction or order section 54 or 55 of the Karnataka Police Act, 1963 has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner.

4A. Taking of measurements, etc., of habitual offenders against whom restriction order is made.—Any person against whom an order of restriction has been made under the provisions of the Karnataka Habitual Offenders Act, 1961 shall, if so required by a police officer, allow his measurements and photographs to be taken in the prescribed manner.”;

[Vide Karnataka Act 29 of 1975, s. 4].

Insertion of new section 4B.—In the Identification of Prisoners Act, 1920 (Central Act 33 of 1920), after section 4A, the following section shall be inserted namely:—

“4B. Taking of measurement etc., of beggars under the Karnataka Prohibition of Beggary Act, 1975.—Any person who has been arrested and not released under sub-section (3) of section 11 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975) or against whom an order of detention has been made under sub-section (1) of section 12 of the said Act, shall, if so required by an officer in charge of a receiving centre or relief centre allow his measurements and photographs to be taken in the prescribed manner.”

[Vide Karnataka Act 1 of 1982, s. 2].

1. See now s. 117 of the Code of Criminal Procedure, 1973 (2 of 1974).

5. Power of Magistrate to order a person to be measured or photographed.—If a Magistrate is satisfied that, for the purposes of any investigation of proceeding under the ¹Code of Criminal Procedure, 1898 (5 of 1898), it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer:

Provided that no order shall be made directing any person to be photographed except by a magistrate of the first class:

Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

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For the first proviso to section 5, the following proviso shall be substituted, namely:—

“Provided that no order shall be made directing any person to be photographed except by a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class.”;

[*Vide* Karnataka Act 29 of 1975, s. 4].

6. Resistance to the taking measurements, etc.—(1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(2) Resistance to or refusal to allow taking of measurements or photograph under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code, 1860 (45 of 1860).

7. Destruction of photographs and records of measurements, etc., on acquittal.—Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any court, all measurements and all photographs (both negatives and copies) so taken shall, unless the court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

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For section 7, the following section, shall be substituted, namely:—

“7. Destruction of photographs and records of measurements, etc., on acquittal.—Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or if in a case where such person is released without trial, the District Magistrate or the Sub-divisional Magistrate or in any

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

area for which a Commissioner or Police has been appointed, the Commissioner of Police for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.”: [Vide Karnataka Act 29 of 1975, s. 4].

8. Power to make rules.—(1) The State Government may, ¹[by notification in the Official Gazette,] make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(a) restrictions on the taking of photographs of persons under section 5;

(b) the places at which measurements and photographs may be taken;

(c) the nature of the measurements that may be taken;

(d) the method in which any class or classes of measurements shall be taken;

(e) the dress to be worn by a person when being photographed under section 3; and

(f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

¹[(3) Every rule made under this section shall be laid, as soon as may be after it is made, before State Legislature.]

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In Clause (e) of sub-section (2) of section 8, for the words “under section 3”, the words “in accordance with the provisions of this Act” shall be substituted.

[Vide Karnataka Act 29 of 1975, s. 4].

9. Bar of suits.—No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.

1. Ins. by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).