

(Passed under Council Order No. 183/56 dated 17-5-1956)

Whereas it is necessary to make provision for the better control of riotous and disorderly persons commonly known as goondas, it is hereby enacted as follows :-

1. Short title, extent and commencement:- (1) This act may be called the Azad Kashmir Control of Goondas Act, 1956.

(2) It shall have effect throughout the Azad Kashmir Territory and shall come into force at once.

2. Contribution of District Tribunal:- The Government may for the purposes of the Act by notification in the official Gazette constitute for any district a District Tribunal (hereafter called the Tribunal) consisting of the District Magistrate or an Additional District Magistrate.

3. Powers of Tribunal:- (1) For the purpose of conducting enquiries under this Act, a Tribunal shall have all the powers of a District Magistrate under the Code of Criminal Procedure, 1898 for issuing summons and warrants for the production of witnesses and documents for the examination of persons complained of and witnesses, and for issuing commissions for the examination of witnesses.

(2) Proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of the Code of Criminal Procedure 1898.

(3) A Tribunal may keep its record in English or Urdu.

4. Contempt proceedings:- A Tribunal shall have the powers of a Court of Record for punishing contempt of its authority, provided that the maximum period for which any person may be committed to prison under this provision shall be three months.

5. Orders by Tribunal:- The Tribunal shall not be bound to follow the rules or evidence prescribed under the Evidence Act, 1872,

and may inter alia by written; order :-

(a) direct that the whole or any part of the enquiry against any

person complained of shall be held in camera ;

(b) for reasons to be stated in the order accept evidence on affidavit of witnesses whose presence cannot be secured without such amount of delay or expense as would in the opinion of the Tribunal be unreasonable in the circumstances of the case or on any other ground sufficient in its opinion and connected with any matter arising in the case ;

(c) for reason to be stated in the order, record the statement of any witness in camera in the absence of the person complained against and his counsel, if the Tribunal is satisfied that the persons complained against one deliberately evading appearance;

(d) direct any Magistrate having Jurisdiction in the area to take such steps as may be necessary to protect the life and property of any person who has given or is required to give evidence in any enquiry under this Act ;

(e) grant immunity from prosecution to any witness appearing in any enquiry under this Act, in respect of any matter relevant to the enquiry contained in this evidence ; and

(f) direct, with reference to specified portions of the record of the enquiry, that no copies or abstracts shall be made by or furnished to any person including the person complained of.

Cognizance of cases by Tribunal:- (1) A Tribunal shall take cognizance of a case only when an information, in respect of a specified person is laid before it, by a Police Officer, not lower in rank than an officer-in-charge of a Police station, who has taken part in the investigation of the case. The information shall be signed by the officer concerned and shall briefly set out:-

(a) the practices with which the person complained of is charged;

(b) instances, with details of time and place of such practices;

(c) a statement of any relevant general reputation enjoyed by the said person and any other ground on which the information is based ;

(d) names and other particulars of witnesses who will be

produced to support the allegations contained in the information
sand

(e) whether the said person is sought to be declared a goonda or
a dangerous goonda.

(2) The officer laying the information may, if he thinks fit
enclose any of the above particulars in a sealed cover and request
the same be kept secret, and the Tribunal shall order that such
particulars shall not be disclosed at any stage of the enquiry, and
that when the said particulars fall under clause (d) of sub-section
(1) the name of the witness shall not be disclosed until such time
as such witness is produced in evidence; provided that if the said
officer or the person conducting the prosecution before the
Tribunal desires that the name of any witness may not be
disclosed at all, the Tribunal shall order accordingly.

Summoning of the persons complained of:- On receipt of an
information under section 6 the Tribunal shall summon the
person complained of to appear before it and shall at the same
time supply him with a copy of such portion of the information
as is not to be kept secret under the provisions of the preceding
section provided that when the Tribunal is satisfied that such
action is necessary, it may, in the very first instance or at any
later stage of the enquiry, instead of issuing a summon or notice
issue a warrant, non-bailable or bailable in such sum as may
appear to it reasonable, for the arrest of the aforesaid person and
his production before the Tribunal and may also issue such
warrant if satisfied that the said person is hiding himself to evade
service of the summons or if he does not appear in spite of the
servicer of the summons.

Appearance before a Tribunal:- (1) When the person
complained of appears before it, the Tribunal may take a bond
from him with or without sureties for his appearance during the
enquiry or when called upon as the case may be and may also,
having regard to the nature of the information laid against him,
require him to furnish a bond, with one or more sureties, in such
sum as the Tribunal may think fit, to be of good behaviour until
the conclusion of the enquiry and may direct that he may be
detained in custody until such bond is executed, or in default of
execution, until the enquiry is concluded;

(2) The Tribunal may, for reasons to be recorded, instead of
taking a bond for the appearance of the person complained of,

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order his detention in such custody as may be prescribed by the Government by a general or special order till the conclusion of the enquiry by it.

Proceedings before a Tribunal:- The Tribunal shall then proceed to enquire into the truth or otherwise of the information upon which action has been taken and for that purpose to take such evidence as may appear necessary, following in all cases the procedure prescribed in the Code of Criminal Procedure, 1898, for conducting trials and recording evidence in summary cases, but subject to the other provisions of this Act.

Node novo proceedings:- It shall not be necessary for the Tribunal to record the evidence of any witness de novo by reason only of a change in its own composition, but the Tribunal may at any time summon and examine any person who in its opinion, is capable of giving information relevant to any matter under enquiry notwithstanding that such person has already given evidence in such enquiry.

Joint proceedings:- Where two or more persons are associated together with regard to any matter covered by, the allegations contained in the information respectively laid in respect of each to an extent which in the opinion of the Tribunal justifies such a course, the enquiry into the matter with regard to which they are associated together may be conducted against all or any of them jointly, or against each of them separately, as the Tribunal shall think just.

Declaration of goondas and dangerous goondas:- (1) If the Tribunal is satisfied, as a result of enquiry held under this Act, that the person complained against :-

(i) frequents for immoral purposes houses or localities inhabited by prostitutes ; or

(ii) frequents resorts of vice such as drinking or gambling dens or places where opium or other intoxicating drugs are

smoked or otherwise consumed ; or

(iii) generally appears in public while drunk, or is addicted to smoking opium ; or

(iv) uses obscene or abusive language in public ; or

(v) makes fraudulent collections in the name of charity, it shall declare that such person is a goonda, and direct that his name be publicly notified in the prescribed manner, and placed on the prescribed list of goondas.

(2) If a Tribunal is satisfied, as a result of enquiry as aforesaid, that any person complained against :-

(i) having previously been declared a goonda, has since such declaration acted in any manner specified in the preceding sub-section, or has contravened any prohibitory order under Section 14 made in respect of him by the Tribunal ; or

(ii) corrupts young persons, by initiating them in the practice of any vice which if established against any person to the satisfaction of the Tribunal would entail his being declared a goonda or a dangerous goonda under this section ;

(iii) annoys or molests other persons, particularly women or young persons ; or

(iv) publishes, distributes, circulates, sells or offers for sale any obscene book or picture or other objects ; or

(v) does obscene acts including wilfully exposing his person in public ; or

(vi) insults the modesty of women by using foul language or making indecent sounds or gestures or by exposure of his person or the person of any other individual or of any object or otherwise howsoever ; or

(vii) engages in kidnapping or seducing women or young persons, or procuring women or young persons for immoral purposes; or

(viii) indulges in unnatural carnal inter-course ; or

(ix) keeps a drinking or gambling den, or place where opium or other intoxicating drugs are smoked or otherwise consumed or makes a livelihood out of such den or place, by acting as a tout or otherwise, howsoever, or engages in the illicit manufacture or sale of liquor or opium or other intoxicating drugs ; or

(x) behaves riotously in public by entering into affrays, or otherwise howsoever ; or

(xi) causes fear or alarm to the public or any section or member thereof, by issuing threats verbally or in writing or by making publishing or circulating statements rumours or reports ; or

(xii) is a bully, who assaults or threatens persons with the object of causing fear or alarm, or to compel them to act or not to act in a manner in which they are not bound to act, or as the case may be are entitled to act ; or

(xiii) makes a livelihood or extorts money or other property, or seeks any concession or favour from any one by any form of intimidation; or

(xiv) utters counterfeit coins ; or

(xv) is by habit a smuggler of goods through custom or octroi or other tax barriers, without payment of the requisite duty or tax or in contravention of a lawful order prohibiting the export or import across such barriers ; or

(xvi) is by habit a forger ; or

(xvii) makes a livelihood out, or, otherwise practices, whether by himself or in association with other persons, the receiving or disposal of stolen property ; or

(xviii) makes a livelihood by cheating, fraud, black marketing (that is to say, engaging in transactions involving the transfer, sale or movement of goods in contravention of any law full order controlling such transfer, sale, or movement), acting as an intermediary between bribe-givers and corrupt officials or person in public life, or by any other corrupt or dishonest means: it shall declare that such person is a dangerous goonda and shall direct that his name be publicly notified in the prescribed manner, and be placed on the prescribed list of dangerous goondas.

Special orders against goondas and dangerous goondas:- While making a declaration under Section 12, the Tribunal may take such action, as to it may seem fit, in one or more of the following ways :-

(1) Where the declaration is that the person complained of is a goonda or a dangerous goonda :-

(a)

(b)

(c)

it may, in view of his age and antecedents and the fact that some person of matured age who is in a position of authority over him, by virtue of relationship or otherwise, becomes responsible for his good behaviour and executes a bond or other document to the satisfaction of the Tribunal to this effect, release him after due admonition ;

it may require the person complained of to furnish a bond with one or more sureties, for such period not exceeding 3 years, and in such amount as may be specified to be of good behaviour, provided that where the person complained of is minor a bond executed by a surety or sureties only, may be accepted ;

it may direct that the person complained of shall not visit any house or quarter inhabited by prostitutes, or any drinking or gambling den, or any place where opium or other intoxicating drugs are smoked or otherwise consumed or any other specified locality.

(2) In the case of a person who is declared a dangerous goonda :-

(a)

it may direct that his movements shall be restricted to any area specified in the order, or may direct him to report himself at such times and places and in such mode as may be specified in the order, or it may make both the directions ; or may direct that he shall be externed from Azad Kashmir;

(b) it may direct that he shall not visit or go within surroundings

specified in the order, or, any of the under mentioned places without the written permission of the Police Officer in charge of the Police Station within whose jurisdiction, such place is situated, namely :-

(i) schools, colleges, and other institutions where minor persons or women are given education or other training

or are housed permanently or temporarily ;

(ii) theatres, cinemas, fairs, amusement parks, and other places of public entertainment ;

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(iii) public halls, restaurants, tea-shops, and other places of public resort ;

(iv) public or private parks and gardens ;

(v) public or private playing fields and race-course ; or

(vi) the scene of any public meeting or procession or any assemblage of the public, whether in an enclosed place or otherwise, in connection with any public event or festival or other celebration.

Publication of declaration:- An order under Section 12 declaring any person to be goonda or a dangerous goonda shall be published along with statement of the order or orders if any made in respect of such person under Section 13, in such manner and containing such details as may be prescribed.

Bonds under Tribunal's order:- (1) Every bond furnished in compliance with an order made by a Tribunal under this Act shall be in the form prescribed by the Code of Criminal Procedure, 1898, for a bond of the same description provided that the Tribunal may direct that the sureties offered may be scrutinised by a Magistrate of the 1st Class nominated for the purpose by the District Magistrate.

(2) The Tribunal may, where a person who has furnished a bond for his appearance makes default, direct in addition to action under the other provisions of this Act, that a warrant shall be issued for the production of such person, which may be bailable or non-bailable as the Tribunal may direct.

(3) Where default is made in furnishing sureties, the Tribunal may direct that the person from whom such sureties were demanded shall be committed to prison, or if he is already in prison, shall be detained in prison, until the sureties are furnished, or the period for which the security is demanded expires, or the Tribunal makes an order for the release of the person detained, whether conditional. or otherwise.

(4) Any surety may apply to be released from the obligations of his bond, and the Tribunal may, after such enquiry as it may deem fit, call upon the person who is bound down to furnish a fresh surety and there upon the provisions of sub-sections (5) and (2) shall apply in relation thereto :

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Provided that the surety seeking release shall not be released from his obligations unless a fresh surety has been accepted in his place or in case no surety is furnished or accepted, he produces the person concerned before the Tribunal.

(5) The provisions of Section 514 Criminal Procedure Code, 1898, shall apply in respect of the forfeiture of bond, furnished under this Act, as if for the expression 'Court' the expression 'Tribunal' wherever applicable for the purposes of this Act, were substituted, and as if from sub-section (1) of the said section, the reference to a Magistrate of the first class were exercised, and as if sub-section (7) of the said section :-

(i) the reference to 'Section 106 or Section 118 or Section 562' of that Code were replaced by a reference to 'clause (1) (b) of Section 13 of this Act ; and

(ii) the reference to a bond executed in lieu of the bond under Section 514-B of that Code were replaced by a reference to the proviso to clause (I) (b) of Section 13 of this Act.

(6) A breach of any order made against any person under clause (1) (c), or clause (2) (a) or clause (2) (b) of Section 13, or the commission of any offence which is punishable with imprisonment under any law for the time being in force and which in the opinion of the Tribunal involves or implies moral turpitude, shall amount to a breach of a bond for good behaviour which may have been furnished by him under this Act.

Revision of Tribunal's orders:- No appeal shall lie from any order made by a Tribunal, but in relation to any such order under Section 4 or Section 12, or Section 15, the High Court may call for the record of the case, and if the Tribunal appears :-

(a) to have exercised a jurisdiction not vested in it by law ;

(b) to have failed to exercise jurisdiction so vested ; or

(c) to have acted in the exercise of its jurisdiction illegally the High Court may make such direction as it may deem sufficient for the rectification of the error or omission and

the Tribunal shall conduct itself accordingly.

Enhanced punishments in some cases:- Notwithstanding any thing contained in the Azad Kashmir Penal Code, any other law

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for the time being in force, when a dangerous goonda is convicted under an Act mentioned in the first column of the Schedule to this Act for an offence punishable under any of the Sections of that Act mentioned against it in the second Column of the said schedule, the maximum punishment that may be awarded, on such conviction shall be that appearing in the corresponding entry in the third column thereof.

Procedure where a person absconds or conceals himself:- If the Tribunal has reason to believe that a person against whom a warrant of arrest has been issued under Section 7, has absconded, or is concealing himself, so that the warrant can not be executed, it may :-

(a) send a report to a Magistrate having jurisdiction in the area where the person complained of ordinarily resides or has his property or is present, and the said Magistrate shall take proceedings under Sections 87, 88, and 89 of the Code of Criminal Procedure, 1898 in respect of the said person and his property as if the warrants were issued by the said Magistrate ; or

(b

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by order notified in the official Gazette direct the said person to appear before it, at such place and within such period as may be specified in the order ; and if the said person omits to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had at the first possible opportunity within the period sent information to the Tribunal of the reason which rendered compliance therewith impossible and if his whereabouts, be deemed to have evaded compliance with the order.

Photographs, fingerprints, etc.: - Every person, in respect of whom an order has been made under Section 12 of this Act, shall, if so directed by the Tribunal present himself before such officer of the Government and at such place and time as may be specified in the order :-

(i) for being photographed ;

(ii) for giving his finger impressions or if literate, specimens of his hand writing and signature and such person shall allow himself to be photographed and shall affix his finger

impressions as required or as the case may be supply
specimens of his hand-writing and signature.

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Offences cognizable and non-bailable:- Notwithstanding anything contained in any other law for the time being in force, every offence punishable under this Act, shall, within the meaning of the Code of Criminal Procedure, 1898, be cognizable and non-bailable.

Bar of civil or criminal proceedings:- No proceedings taken or order passed under this Act, shall be called in question otherwise than as provided hereunder and no civil or criminal proceedings shall be instituted against any person for any thing done or intended or purported to be done under this Act, or against any person for any loss or damage caused to, or in respect of any property, as a result of an act done or purported to be done under this Act.

Effect of other law and enactments:- The provisions of this Act, and any order made or action taken under this Act, shall have effect notwithstanding anything inconsistent therewith contained in any enactment, other than this Act for the time being in force and in any instrument, having effect by virtue of any such enactment other than this Act.

Penalty for breaches of orders:- (1) A breach of any order made under clause (1) (c) or clause (2) (a) or clause (2) (b) of Section 13, shall be punishable with imprisonment of either description which in the case of a goonda may extend to one year and in the case of a dangerous goonda to three years.

(2) A breach of any order made or direction given under this Act not otherwise provided for shall be punishable with imprisonment of either description which may extend to one year or with fine or with both.

Appointment and duties of probation Officers:- (1) The Government shall, in each district for which a Tribunal has been constituted, appoint an officer of police not lower in rank than a Deputy Superintendent of Police to be probation Officer.

(2) It shall be the duty of the probation officer under the general control of the Tribunal:-

(a) to have the superintendence of all goondas and dangerous goondas in his district with a view to preventing them from

evil associations and assisting in their rehabilitation as useful citizens ;

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(b) to make reports at prescribed times and in the prescribed manner to the Tribunal regarding the general behaviour of each such person, and the manner of dealing with him ;

(c) to make recommendations, as and when justified by the general behaviour of any such person for releasing him from any bond for good behaviour or from any order of prohibition or detention made in respect of him under clause (1) (b) or clause (1) (c) or clause (2) (a) or clause (2) (b) of Section 13, as the case may be ; and

(d) to make recommendations, as and when justified by marker improvement in the general behaviour, manner of life and character of any goonda or dangerous goonda that his name may be removed from any list on which it is carried.

Action on probation officer's report:- On receipt of a periodical report, or as the case may be, a recommendation, from the probation Officer, the Tribunal may in the case of any goonda or dangerous goonda after such enquiry as it may deem necessary direct :-

(a) that he be released from any bond for good behaviour furnished by him or on his account and from any order of detention or of prohibition made in respect of him under Section 13 ; or

(b) that his name be removed from the list of goondas or dangerous goondas, as the case may be maintained in the district.

Secret Record:- The record of the proceedings held by a Tribunal or any portion thereof for which the person laying the information or conducting the prosecution before the Tribunal has claimed privileges before the Tribunal or which he has requested for being kept a secret shall not be available for inspection by any one during the enquiry before the Tribunal or any revision proceedings before the High Court except by the members of the Tribunal and the Judges of the High Court hearing the revision, or after the disposal of the case, and such records shall after the disposal of the enquiry be kept in such custody as the Government may prescribe.

Rules:- (1) The Government may make rules, not in consisting with the provisions of this Act, for carrying out the purposes of

this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), such rules may provide for:-

- (a) the lists to be maintained in each district separately, and for the whole Azad Kashmir Territory in which the names of goondas or dangerous goondas are to be registered and the manner of such registration ;
- (b) the manner in which the names of persons who are declared to be goondas or dangerous goondas shall be publicly notified ;
- (c) the manner in which an order under clause (a) of sub-section (2) of Section-13 operate ;
- (d) the periods for which and the manner in which a probation Officer shall make reports to the Tribunal regarding the general behaviour of goondas and dangerous goondas.

Definitions:- Unless the context otherwise requires, all expressions used in this Act shall have the meanings assigned to them in the Penal Code or in the Code of Criminal Procedure as in force in Azad Kashmir.

THE SCHEDULE

Name and other Numbers of MAXIMUM details of Act. Sections PUNISHMENT

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AZAD KASHMIR

PENAL CODE

Chapter VIII 1. Sections 143, Two years rigorous Penal Code. 144, 151 & 154. Imprisonment.

2. Section 153-A. Five years rigorous imprisonment.

3. Sections 157 & Three years rigorous 158. imprisonment.

4. Section 160. Two years rigorous imprisonment.

Chapter X penal 1. Sections 172, One years' rigorous Code 173, 174 & 182 imprisonment.

2. Sections 186 & Two years' rigorous

Chapter XI Penal
Code

Chapter XIV Penal
Code

Chapter XVI
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The Jammu and
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Gambling Act.

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3. Sections 186 &
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1. Sections 224,
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2. Sections 225 &
228.

1. Sections 292,
293 & 294.

1. Section 341.

2. Section 352.

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1. Sections 411 &
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418 & 419.

1. Section 465.

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PART II -

OTHER ACTS

Sections 3, 4, 7, 13.

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imprisonment.

Three years rigorous
imprisonment.

Five years rigorous
imprisonment.

Two years rigorous
imprisonment.

Two years rigorous
imprisonment.

One years rigorous
imprisonment.

Two years rigorous
imprisonment.

Two years rigorous
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Five years rigorous
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Five years rigorous
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Five years rigorous
imprisonment.

Five years rigorous
imprisonment.

Six months rigorous
imprisonment.

One years rigorous
imprisonment for
the first and two
years rigorous
imprisonment for
any subsequent
offence.

