

INTERNEES (DISCIPLINE AND OFFENCES) ORDER, 1963

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INTERNEES (DISCIPLINE AND OFFENCES) ORDER, 1963

G.S.R. 738, dated the 23rd April, 1963.-In exercise of the powers conferred by sub-section (1) of Section 4 of the Foreigners Act, 1946 (31 of 1946), the central Government hereby makes the following order, namely:-

1. Short title and extent :-

(1) This order may be called the Internees (Discipline and Offences) Order, 1963.

(2) It shall apply to internee confined or detained in any place (hereinafter referred to as internees camp) in pursuance of Section 4 of the Foreigners Act, 1946.

2. Definitions :-

In this order, unless the context otherwise requires,-

(a) "Camp offence", means a camp offence as defined by clause 4 :

(b) "Commandant", means the commandant of the internment camp appointed in pursuance of paragraph 4 of the Foreigners (Internment) Order, 1962 ;

(c) "Criminal Offence" means an offence other than a camp offence. Legislative Notes.-"In exercise of the powers conferred by sub-section (1) of Section 4 of the Foreigners Act, 1946 the Internees (Discipline and Offences) Order, 1963, was framed. Sub-section (1) of Section 4 of the Foreigners Act speaks that any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of Section 3 , directing that he be detained or confined shall be detained or confined in such place and manner and subject to such conditions as to maintenance discipline and punishment of offences and breaches of discipline as the Central Government may from time to time by order determine."

3. Commandants power to make order :-

(1) Subject to the provisions of this order, the custody and safety of, and the maintenance of discipline among internees shall be regulated by orders issued by the Commandant.

(2) A copy of such order shall be forwarded without delay to the Central Government, and the Central Government may cancel or modify such orders as it thinks fit.

(3) Orders issued under this clause shall be communicated to internees in a language which they understand.

4. Camp offences :-

Any internee who contravenes, or fails to comply with any order made under Clause 3, or whose conduct is otherwise prejudicial to the maintenance of discipline among internees, shall be deemed to have committed a camp offence :

Provided that nothing in this order shall affect the liability of an internee to proceedings in a criminal court for a criminal offence :

Provided further that where the act constituting a camp offence constitutes also an offence punishable under the Indian Penal Code with imprisonment for a term exceeding one year, it shall be deemed not to be a camp offence.

5. Dismissal of charge of camp offence :-

The Commandant upon receiving information of a charge made against an internee under his custody of having committed a camp offence, shall dismiss the charge, if he is of opinion that it ought not be proceeded with.

6. Summary trial of camp offences :-

(1) If the Commandant does not dismiss the charge under Clause 5, he shall, subject to the provisions of Clause 4, charge the internee with a camp offence and proceed to hear such evidence as may be produced both against and on behalf of the Internees.

(2) An internee charged with a camp offence may demand that evidence shall be taken on oath and in that event the same oath or affirmation as that required to be taken of witnesses before a court established under the Code of Criminal Procedure, 1898 shall be administered to such witness.

7. Punishment for camp offences :-

If the Commandant is of opinion that the internee is guilty of the commission of a camp offence, he may award the internee any one or more of the following summary punishments namely,-

(i) detention for any period not exceeding twenty eight days ;

(ii) confinement to quarters for any period not exceeding fourteen days during which period the offender may be required to answer his name at uncertain hours during the day:

(iii) suspension of such privileges as the Commandant may order:

(iv) forfeiture of such portion not exceeding 50 per cent of any allowance granted by Government for the Internee's personal expenditure as the Commandant may order :

Provided that,-

(a) an internee undergoing a summary punishment shall not be subjected to treatment less favourable than that prescribed, as regards punishment of the same kind, for persons of the like status subject to military law as soldiers :

(b) the privileges of writing and of receiving letters shall not be suspended in respect of an internee who is awarded a summary punishment of detention.

8. Execution of punishment for camp offences :-

(1) Subject to the provisions of sub-clauses (2) and (3), a summary sentence of detention awarded by the Commandant shall be executed in such manner as the Central Government may from time to time direct.

(2) If an internee is awarded detention for a period of ten days or more, he shall not be committed to the detention barrack within three days of the termination of any previous award of detention, and shall not again be committed to the detention barrack within three days of the termination of the said period of ten days or more.

(3) A summary punishment of detention shall be awarded in hours upto a maximum of 168 hours, or in days, when the sentence exceeds that period. A period of detention in hours shall be deemed to begin at the time when the internee under sentence is received at the camp detention barrack on the date of the award, or if for any reason has not been committed to the barrack on that day, on the day after the date of award at the hour fixed for the commitment and release of persons under sentence of detention. A period of detention in days shall be deemed to begin on the date of the award.

9. Bar to appearance of pleaders in camp offence proceedings :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or any other law, no pleader as defined in the said Code shall be entitled to appear or act on behalf of an internee with a camp offence.

10. Saving of Internees Right to Petition :-

An internee shall not be liable to be punished for submitting a petition or complaint with regard to the conditions of his internment, even though such petition or complaint is found to be groundless.

11. Procedure in proceedings for Criminal offences :-

(1) A complaint in respect of a non-cognizable criminal offence alleged to have been committed by an internee may be made by the Commandant or by any person subordinate to him and authorised by him in this behalf.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, if an Internee is accused of the commission of a criminal offence,-

(a) the Commandant may, at his option, surrender the accused to police custody if the offence is cognizable offence or may, in any case, segregate or detain the accused in the Internment camp

pending the order of the Court ;

(b) the accused shall not be released on ball, nor remanded to custody otherwise than In the internment camp :

(c) where the accused has been remanded to custody in an internment camp, he shall be kept under confinement in the camp detention barracks or elsewhere, as the Commandant may direct:

Provided that the accused shall not, by virtue of such confinement, be subject to any other conditions which may be imposed on persons undergoing summary punishment ;

(d) the accused shall be tried within the limits of internment camp;

(e) the provisions of Articles 71 to 76 of the Geneva Convention relating to the Protection of Civilian Persons in Time of War of August 12, 1949, shall be observed in judicial proceedings initiated against such class or classes of internees as may be designated from time to time by the Central Government as though in the said Articles references to a prisoner of war were references to an internee.

12. Convicted Internees Right to Petition :-

Notwithstanding anything contained in the Prisons Act, 1894 , an internee who is convicted of a criminal offence shall not be liable to be punished for submitting a petition or complaint with regard to the conditions of his imprisonment even though such petition or complaint is found to be groundless.

13. Internees subject to one proceeding only for any offence :-

An internee shall not be liable to be tried by a criminal court on any charge which has been dismissed or dealt with as a camp offence and shall not be liable to be charged with a camp offence for any offence of which he has been acquitted or convicted by a competent criminal court.

14. Escape :-

(1) An internee who escapes from internment camp is recaptured before he has been able to escape from India shall be deemed by such escape to have committed a camp offence only.

(2) An internee who abets the escape, or attempts to escape of another internee shall be deemed by such abetment to have

committed a camp offence only.