

MEGHALAYA ORDINANCE No.5 of 1979  
 THE MEGHALAYA PREVENTIVE DETENTION ORDINANCE, 1979

An  
 Ordinance

**to provide for detention in certain cases for the purposes of maintenance of internal security of the State or the maintenance of public order and matters connected therewith**

Whereas, the Legislature of the State of Meghalaya is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor is pleased to promulgate the following Ordinance :—

**1. Short title, extent and commencement.**—(1) This Ordinance may be called the Meghalaya Preventive Detention Ordinance, 1979.

(2) It extends to the whole of the State of Meghalaya.

(3) It shall come into force at once.

**2. Definitions.**—In this Ordinance, unless the context otherwise requires,—

(a) "detention order" means an order made under Section 3 ;

(b) "Government" or "State Government" means the Government of Meghalaya.

(c) "State" means the State of Meghalaya.

**3. Power to make orders detaining certain persons.**—(1) The State Government, or any officers of the State Government, not below the rank of a Secretary specially empowered for the purpose of this section or a District Magistrate may, if satisfied, with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) When any order is made under this section by an officer mentioned in sub-section (1) or by a District Magistrate he shall forthwith report the fact to the State Government together with grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government :

Provided that where under Section 8 the grounds of detention are communicated by the authority making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to modification that for the words "twelve days", the words "fifteen days" shall be substituted.

4. **Execution of detention orders.**—A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. **Power to regulate place and conditions of detention.**—Every person in respect of whom a detention order has been made shall be liable.—

- (a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for the breaches of discipline, as the State Government may, by general or special order, specify; and
- (b) to be removed from one place of detention to another place of detention within the State by order of the State Government.

6. *Detention orders not to be invalid or inoperative on certain grounds.*—No detention order shall be invalid or inoperative merely by reason—

- (a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order; or
- (b) that the place of detention of such person is outside the said limits.

7. *Powers in relation to absconding persons.*—(1) If the Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed the Government may—

- (a) make a report in writing of the fact to the Deputy Commissioner or a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;
- (b) by order notified in the Official Gazette direct the said person to appear before such officer at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within

the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under clause (b) of sub-section (1) shall be cognizable.

8. *Grounds of order of detention to be disclosed to person affected by the order.*—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. *Constitution of Advisory Boards.*—(1) The State Government shall whenever necessary, constitute one or more Advisory Boards for the purposes of this Ordinance.

(2) The constitution of every such Board shall be in accordance with the recommendations of the Chief Justice of the Gauhati High Court.

(3) Every such Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the Gauhati High Court and the other members shall be serving or retired Judges of any High Court.

10. *Reference to Advisory Boards.*—Save of otherwise expressly provided in this Ordinance, in every case where a detention order has been made under this Ordinance the State Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under Section 9, the grounds on which the order has been made and the representation, if any made by the person affected by the order, and in case where the order has been made by an officer referred to in sub-section (1) of Section 3, also the report by such officer under that section.

11. *Procedure of Advisory Boards.*—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

**12. Action upon the report of Advisory.**—(1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of the person the Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned the Government shall revoke the detention order and cause the person to be released forthwith.

**13. Maximum period of detention.**—The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Section 12, shall be six months from the date of detention:

Provided that nothing contained in this section shall affect the power of the Government to revoke or modify the detention order at any earlier time.

**14. Revocation of detention Orders.**—(1) Without prejudice to the provisions of Section 35 of the Meghalaya Interpretation and General Clauses Act, 1973 a detention order made by an officer of the Government or the District Magistrate may, at any time, be revoked or modified by the State Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under Section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the State Government or an officer or District Magistrate, as the case may be, is satisfied that such an order should be made.

**15. Temporary release of persons detained.**—(1) The Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place and to the authority specified in the order directing his release or cancelling his release, as the case may be,

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. **Protection of action taken in good faith.**—No suit or other legal proceedings shall lie against the State Government, and no suit, prosecution or other legal proceedings shall lie against any person, for anything in good faith done or intended to be done in pursuance of his Ordinance.

## MEGHALAYA ORDINANCE 6 OF 1979

### THE MEGHALAYA PREVENTIVE DETENTION AMENDMENT ORDINANCE, 1979

An

Ordinance

to amend the Meghalaya Preventive Detention Ordinance, 1979.

Whereas, the Legislature of the State of Meghalaya is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor is pleased to promulgate in the Thirtieth Year of the Republic of the India the following Ordinance—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Meghalaya Preventive Detention (Amendment) Ordinance, 1979.

(2) It extends to the whole of the State of Meghalaya.

(3) It shall come into force at once.

2. **Amendment of clause (b) of section 5 of Ordinance 5 of 1979.**—In the Meghalaya Preventive Detention Ordinance, 1979 for clause (b) of section 5 the following shall be substituted, namely:—

“(b) to be removed from one place of detention to another place of detention, whether within the State or in another State, by order of the State Government;

Provided that no order shall be made by the State Government under clause (b) for the removal of a person from the State to another State except with the consent of the Government of that other State.