

CHAPTER 29

PREVENTION OF CRIMES

Ordinances Nos. 2 of 1926,
27 of 1928,
24 of 1933,
20 of 1937,
69 of 1938,
55 of 1945.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE IDENTIFICATION AND SUPERVISION OF CRIMINALS AND THEIR MORE EFFECTIVE PUNISHMENT AND FOR THEIR PROLONGED DETENTION. AND ALSO TO PROVIDE FOR ENLARGING OF CONVICTS UPON LICENCES AND CONTROLLING THEM WHEN AT LARGE.

[1st January. 1929.]

Short title. **1.** This Ordinance may be cited as the Prevention of Crimes Ordinance.

IDENTIFICATION OF PERSONS PREVIOUSLY CONVICTED

Procedure where a person accused of a non-summary crime is suspected of having been previously convicted.

2. (1) Whenever a person accused of a crime that is not triable summarily has been committed for trial, the Magistrate may at any time after such committal and before the trial cause the accused's finger prints to be taken in court and forwarded for identification to the Registrar. For this purpose the Magistrate may delay the transmitting of the record to the court of trial until the completion of such further proceedings.

(2) The Registrar shall compare the finger prints so forwarded with his records of finger prints and shall issue to the Magistrate a certificate in the prescribed form, stating whether or not the finger prints forwarded are identical with the finger prints of a registered criminal and setting out the prescribed particulars of each conviction for a crime entered against such criminal.

(3) (a) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(A) And—

(i) should the accused make a statement admitting all the convictions, the Magistrate shall record it in the manner provided by section 277 of the Code of Criminal Procedure Act;

(ii) should the accused not make a statement or make a statement denying all or any of the convictions, the Magistrate shall after recording the statement (if any) in the manner indicated above proceed to record in respect of such of the convictions as the accused does not admit the evidence prescribed in section 4.

(4) All proceedings recorded under this section and all documents tendered in connexion therewith shall be forwarded to the Attorney-General or to such person as the Attorney-General may direct so as to reach him before the date fixed for the trial.

(5) Any statement or evidence recorded and any document tendered under this section may be put in and read as evidence at the trial at such time after conviction as it becomes material to inquire into the past record and character of the accused.

3. (1) Where, after summary trial of any person accused of a crime, a Magistrate finds him guilty thereof or without proceeding to conviction proposes to deal with him under section 306 (1) of the Code of Criminal Procedure Act, the Magistrate shall, notwithstanding anything in section 185 of the Code of Criminal Procedure Act cause the finger prints of such person to be taken and forwarded in the manner provided in subsection (1) of section 2, and the Registrar shall issue a certificate as required by subsection (2) of that section.

(2) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal, the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(3) If the accused, on being called upon under subsection (2)—

- (a) admits all the convictions set forth in the certificate, the Magistrate shall pass sentence on him according to law;
- (b) declines to make any reply, or denies all or any of the convictions set forth in the certificate, the Magistrate shall, before passing sentence on him, proceed to take evidence in proof of such of the convictions as the accused does not admit.

(4)* The Magistrate may, in his discretion, remand the accused or admit him to bail until the certificate issued under subsection (1), or the evidence referred to in paragraph (b) of subsection (3), is available to the court.

Mode of proving previous conviction.

4. The fact that any person has been previously convicted of a crime may be proved by the production of a certificate purporting to be signed by the registrar of a court stating the substance and effect of the charge and conviction, and certifying—

- (a) that such person was so previously convicted before the court; or
- (b) that on an occasion when such person was convicted by the court, of another offence, he admitted that he was so previously convicted, or was proved to have been so previously convicted;

and by proof of the identity of the person against whom a previous conviction is sought to be proved, with the person named in the certificate.

ENHANCED SENTENCE ON CRIMINALS PREVIOUSLY CONVICTED

Power of court to direct supervision of previously convicted criminal after discharge from jail.

5. (1) When a person is convicted of a crime and a previous "conviction of a crime is proved against him, the court of trial may, in addition to any other punishment which it may award to him, direct that he shall on the expiration of any term of imprisonment to which he is sentenced be subject to the supervision of the police for a

period not exceeding two years if the court of trial be a Magistrate's Court and four years if such court be the High Court:

Provided that the provisions of this section shall not apply in the case of any person sentenced to preventive detention under section 7 of this Ordinance. .

(2) Every such person contravening any rule made under section 17 of this Ordinance dealing with persons subject to police supervision, shall in every case, unless he satisfies the court that he did his best to act in conformity with the said rule, be guilty of an offence under this Ordinance, and be liable on conviction to imprisonment of either description for any period not exceeding six months.

Punishment for neglect of such duty.

6. If any person who has previously twice or oftener been convicted of any crime and has been sentenced on such conviction or convictions to undergo rigorous imprisonment exceeding in the aggregate one year is again convicted of a crime before the High Court or a Magistrate's Court, such court, in any case in which it would not otherwise have jurisdiction, so to do, shall have jurisdiction, anything in the Code of Criminal Procedure Act, the Penal Code, or any other enactment to the contrary notwithstanding, to sentence him to rigorous imprisonment for a period not exceeding two years, in addition to any punishment other than imprisonment to which he may be liable.

Sentence to be passed on criminals previously convicted.

7. (1) Where any person, charged before the High Court with a crime committed after the passing of this Ordinance, is convicted by the court and sentenced to a term of not less than one year's rigorous imprisonment, and such person subsequently admits that he is, or is found by the court on indictment to be, a person habitually addicted to crime, the court, if of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that such person should be kept in detention for a lengthened period of years, may pass a further sentence ordering that, on the determination of the sentence of rigorous imprisonment, he be detained for such period not exceeding five nor less than three years, as the court may determine, and such detention is herein referred to as "preventive detention".

Preventive detention.

* Subsection (5) is omitted, as the criminal jurisdiction of District Courts has been removed by section 19 of the Judicature Act.

(2) A person shall not be found to be a person habitually addicted to crime unless the court finds on evidence—

- (a) (i) that since attaining the age of sixteen years he has, whether before or after the passing of this Ordinance, been convicted of a crime at least three times previously to the conviction of the crime with which he is charged ; and
- (ii) that he has on such previous convictions been sentenced to not less than three years' rigorous imprisonment in the aggregate; and
- (iii) that he is leading persistently a dishonest or criminal life; or
- (b) that he has on any of such previous convictions been found to be a person habitually addicted to crime and sentenced to preventive detention.

(3) Any statement, evidence, or document recorded or tendered under section 2, relating to any previous conviction of the person charged before the court, may be put in and used as evidence under subsection (2).

(4) No proceedings whatsoever, except service of notice under subsection (5), shall be taken under this section against any person for being a person habitually addicted to crime until he has been arraigned on an indictment charging him with a crime and unless on such arraignment he has pleaded guilty or has been found guilty by the court.

(5) In an indictment under this section against any person for being a person habitually addicted to crime, it shall be sufficient to state that such person is a person habitually addicted to crime and the court shall, unless he pleads guilty to being a person habitually addicted to crime, inquire whether he is a person habitually addicted to crime:

Provided that no person shall : be arraigned on an indictment for being a person habitually addicted to crime unless not less than seven days' notice thereof has been served on him. Such notice shall specify the previous convictions and other grounds upon which it is intended to found

the charge, and may be served on such person by the Magistrate before forwarding the proceedings under section 2 (4).

(6) A court in deciding whether an offender is a person habitually addicted to crime or not shall pay due regard to the conduct of the accused since his last release from jail, and may admit evidence as to the character and repute of the accused and the accused may tender similar evidence. For these purposes the court may postpone the case from time to time, and remand the accused or admit him to bail.

(7) A person sentenced to preventive detention by the High Court may appeal to the Court of Appeal against such sentence, and such appeal shall be subject to the conditions specified in the Code of Criminal Procedure Act.

8. Where a person has been sentenced, whether before or after the passing of this Ordinance, to rigorous imprisonment for a term of five years or upwards, and he appears to have been at the date of such sentence a person liable to a sentence of preventive detention under section 7 of this Ordinance, the President may, if he thinks fit, at any time after three years of the term of rigorous imprisonment have expired, commute the whole or part of the residue of the sentence to a sentence of preventive detention, so, however, that the total term of sentence when so commuted shall not exceed the term of rigorous imprisonment originally awarded.

President may commute rigorous imprisonment to a sentence of preventive detention.

9. Every sentence of preventive detention shall take effect immediately on the determination of the period of imprisonment to which the convict has also been sentenced, whether such determination take place by effluxion of time or by order under the last preceding section, or by a remission of any part of the sentence under the prison rules or otherwise.

Preventive detention to commence after imprisonment.

10. Persons undergoing preventive detention shall be confined in any prison or part of a prison which the Minister may set apart for the purpose, and shall be subject to the law for the time being in force with respect to rigorous imprisonment as if they were undergoing rigorous imprisonment, subject to such modifications as may be prescribed by rules framed under section 17 of this Ordinance.

Minister may set apart prison for preventive detention.

RELEASE ON LICENCE

Grant of licences to prisoners to be at large.

11. It shall be lawful for the Minister, by an Order in writing, to grant to any prisoner undergoing sentence of imprisonment or preventive detention in any prison in Sri Lanka a licence, in the prescribed form, to be at large in Sri Lanka or in any part thereof during such portion of his period of imprisonment or preventive detention and upon such conditions, as to the Minister shall seem fit. The Minister may, if he thinks fit, revoke or alter such licence or vary the conditions thereof. Every such licence may be granted and every revocation or alteration of a licence or variation of the conditions thereof may be made by an order in writing under the hand of the prescribed officer.

Consequences of conviction of crime committed while at large on licence.

12. Any person who commits a crime while he is the holder of a licence granted as aforesaid shall, on conviction of that crime, undergo—

- (a) any term of imprisonment to which he may be sentenced for that crime; and
- (b) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time of the grant of the licence;

and shall thereafter, notwithstanding anything to the contrary in section 7 or section 9, further undergo—

- (c) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of the licence ; and
- (d) any term of preventive detention to which he may be sentenced in any proceedings taken under section 7 consequent on his conviction of that crime;

and the licence, if in force at the date of his conviction of that crime, shall be deemed to be forfeited by virtue of such conviction.

Non-production of licence or breach of any of the conditions of licence declared an offence.

13. If any holder of a licence granted as aforesaid—

- (a) fails to produce his licence when required to do so by any Judge or Magistrate before whom he may be brought charged with any offence, or by the police officer in whose custody he may be, and fails to make any reasonable excuse for not producing the same ; or
- (b) breaks any of the other conditions of his licence that are not of themselves punishable either upon indictment or upon summary conviction,

he shall be guilty of an offence, and be liable on conviction to imprisonment, either rigorous or simple, for any period not exceeding six months.

14. Any peace officer may without warrant take into custody any holder of a licence granted as aforesaid whom he may reasonably suspect of having committed any offence or having broken any of the conditions of his licence, and may detain him in custody until he can be taken before a competent Magistrate and dealt with according to law.

Arrest of licence holder on suspicion.

15. (1) Where any person is convicted of an offence punishable under section 13, the Magistrate convicting that person shall report such conviction to the Minister and, in any such case, it shall be lawful for the Minister by Order to direct that such person shall be dealt with as if no such licence had been granted to him, and upon the making of such Order the licence granted to such person shall, if in force, be deemed to be revoked by virtue of such Order.

Duty of Magistrate to report conviction to Minister and Order of Minister on such report.

(2) Where the Minister has made an Order under subsection (1), the person to whom that Order applies may, if at large, be arrested without a warrant by any peace officer and be committed by any Magistrate to undergo any term of imprisonment or preventive detention to which he may be liable under section 16 by reason of such Order.

(3) Where a Magistrate commits a person under subsection (2) to undergo any term of imprisonment or preventive detention, he shall forthwith report such committal to the Magistrate by whom such person was convicted of the offence under section 13 in consequence of which the Order under subsection (1) was made.

PREVENTION OF CRIMES

[Cap.29

Consequences of Order made by Minister under section 15.

16. Where the Minister has made an Order under section 15 (1), the person to whom that Order applies shall, after undergoing any term of imprisonment to which he may be sentenced for the offence under section 13 in consequence of which that Order was made, further undergo—

- (a) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time he was granted a licence to be at large ; and
- (A) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of that licence.

Rules to be made by the Minister.

17. (1) The Minister may make rules—

- (a) for the registration of criminals and for the appointment of officers by the Inspector-General of Police to superintend the carrying out of such registration, the photographing of criminals, and the taking of such other measures as may be suitable to ensure the identification of criminals;
 - (b) prescribing the method of identifying criminals so registered ;•
 - (c) prescribing the measures to be taken to keep criminals under observation by peace officers and police officers;
 - (d) regulating the supervision of persons subject to police supervision under section 5 of this Ordinance;
 - (e) regulating the treatment of persons undergoing sentences of preventive detention, the conditions of their discharge, and their supervision by specially authorized supervisors after their discharge;
 - (f) prescribing the conditions on which licences may be granted to prisoners to be at targe under this Ordinance, the forms to be used for such licences and the manner in which such licences shall be authenticated.
- (2) All rules so made, repealed, or amended—
- (i) shall be published in the Gazette and laid for a period of six sitting days before Parliament, and
 - (ii) shall come into force on the day on which they are approved by a resolution of Parliament, or on such later day as may be specified in such rule or resolution :

Provided that where such resolutions are passed on different days such rules shall come into force on the later of such days unless a different date is specified in those resolutions.

18. In this Ordinance, unless the context Interpretation. otherwise requires—

" crime " shall mean a breach of any one of the sections of the Penal Code included in the Schedule;

"criminal" shall mean a person who has been convicted of a crime;

" peace officer " and " police officer " shall have the same meaning as in the Code of Criminal Procedure Act;

" registered criminal" shall mean a person registered under this Ordinance as a criminal;

" Registrar " shall mean the Registrar of Finger Prints.

SCHEDULE

[Section 18.]

Section of Penal Code	Nature of Offence
101.113A,and)13B ...	Abetting and conspiracy to commit any of the offences specified in this Schedule.
From 22(> to 256 (inclusive)	Offences relating to coin and Government stamps.
296,297,300,301	Culpable homicide, &c.
From.) 15 to 324 (inclusive)	Voluntarily causing hurt by dangerous weapons. &c.
From 367 to 371 (inclusive)	Theft, theft of cattle, Ac.
From 373 to 378 (inclusive)	Extortion, Ac.
From 380 to 385 (inclusive)	Robbery, &c.
387	Criminal misappropriation.
From 389 to 392 (inclusive) but excluding 392A and 392e	Criminal breach of trust.
From 394 to 397 (inclusive)	Dishonestly receiving stolen property.
From 400 to 403 (inclusive)	Cheating.
From 418 to 426 (inclusive)	Mischief, &c.
From 435 to 451 (inclusive)	Home-trespass, house breaking, &c.
From 454 to 466 (inclusive)	Forgery, &c.
From 478A to 478D (inclusive)	Offences relating to currency notes and bank notes.
490	Attempting the breach of any of the sections above specified in this Schedule.