

ACT 192

PUNISHMENT OF HABITUAL CRIMINALS ACT, 1963

ARRANGEMENT OF SECTIONS

SECTION

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ACT 192 OF 1963

PUNISHMENT OF HABITUAL CRIMINALS ACT, 1963<sup>1</sup>

AN ACT to provide for the punishment of habitual criminal offenders and for purposes connected therewith.

1. Punishment of habitual criminal offenders

- (1) Where a person who is not less than twenty years of age
- (a) is convicted of an offence other than an offence for which that person is liable to suffer death, and
  - (b) has been convicted previously of at least two offences, each of which is either a felony or a misdemeanour, and
  - (c) it appears to the High Court, after enquiring into the circumstances of the case, that by reason of that person's criminal habits or tendencies or of that person's association with persons of bad character it is expedient for the protection of the public that that person should be detained in custody for a substantial period,

the Court shall, subject to section 2, pass, in lieu of any other sentence, a sentence of preventive custody with productive hard labour for a term, which is not less than ten years, that the Court may determine.

(2) In this Act the expression "**productive hard labour**" has the meaning assigned to it by the Public Property Protection Act, 1977.<sup>2</sup>

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1. This Act was assented to on 9th October, 1963.

2. S.M.C.D. 140.

**2. Medical examination of offender in certain cases**

(1) Where in the case of an offender to whom subsection (1) of section 1 applies the High Court has reason to believe that that person's physical or mental condition renders that person unsuitable for a sentence of preventive custody with productive hard labour under that section, the Court shall, before passing sentence

- (a) cause an inquiry to be held into, and a written report to be made on, the physical and mental health of that offender by a medical board consisting of not fewer than two suitably qualified medical practitioners appointed by the Court after consultation with the Chief Medical Officer,
- (b) consider the report of the board and take any further medical evidence concerning the offender that the Court thinks fit, and
- (c) furnish the offender or the offender's lawyer with a copy of the report.

(2) Where, having regard to the report or further medical evidence, or to any representations made by or on behalf of the offender, the Court is satisfied that the offender's physical or mental health renders the offender unsuitable for a sentence of preventive custody with productive hard labour, but for no other reason, the Court shall, in lieu of that sentence, pass any other sentence that is authorised by law in relation to the offence of which the offender is convicted.

**3. Convictions by Circuit, District and Local Courts**

(1) Where the Court by which an offender to whom paragraphs (a) and (b) of subsection (1) of section 1 applies is convicted is a Circuit Court, District Court or Local Court, the Court shall not pass sentence on the offender but shall commit the offender for sentence to the High Court, and an enactment relating to the powers of a Court on committal for trial shall apply, so far as is relevant, to the committal for sentence.

(2) Following the committal the High Court shall have power to deal with the offender as if the offender had been convicted by that Court of the offence, and, if the offence is an indictable one, as if the offender had been convicted on indictment, and the conviction and sentence shall be subject to appeal as the offender had been so convicted.

**4. Repeal and transitional provision**

(1) Section 402 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) (which section relates to preventive custody) is hereby repealed.

(2) The repeal of section 402 shall not affect a case in which, at the date of the passing of this Act, enquiries are being made under subsection (2) of that section; and that case shall continue to be dealt with by the High Court as if this Act had never been passed.

**5. Construction of this Act**

This Act shall be read as one with the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).

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