

CHAPTER 11. No. 5.

HABITUAL CRIMINALS. (a)

AN ORDINANCE TO MAKE PROVISION FOR THE PROLONGED
DETENTION OF HABITUAL CRIMINALS AND FOR OTHER
PURPOSES INCIDENTAL THERETO.

Ordinances
Cap. 22-1925.
No. 14-1939,
s. 12.

[1st July, 1921.]

Commencement

1. This Ordinance may be cited as the Habitual Criminals Ordinance.

Short title.

2. (1) Where a person is convicted on indictment preferred in the Supreme Court of a crime, and subsequently the offender admits that he is, or is found by the Judge presiding at the trial to be, a habitual criminal, and the Court passes a sentence of imprisonment with hard labour, the Court, if of opinion that the offender is leading persistently a dishonest or criminal life and that it is expedient for the protection of the public that he 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 imprisonment with hard labour, he be detained during the Governor's pleasure, and such detention is hereinafter referred to as preventive detention, and a person on whom such a sentence is passed shall, whilst undergoing both the sentence of imprisonment with hard labour and the sentence of preventive detention, be deemed for all purposes to be a person convicted of felony.

Court may
sentence
habitual
criminal to
preventive
detention.

(2) A person shall be deemed to be a habitual criminal who has at least four times previously to the conviction on the said indictment been convicted of a crime, whether any such previous conviction was before or after the commencement of this Ordinance.

Who is to
be deemed
a habitual
criminal.

(a) Repealed by Ordinance No. 14-1940;

Indictment.

(3) In any indictment under this section, it shall be sufficient, after charging the crime, to state that the offender is a habitual criminal.

Procedure.

(4) In the proceedings on the indictment, the offender shall in the first instance be arraigned on so much only of the indictment as charges the crime, and if on arraignment he pleads guilty or is found guilty by the jury, the Judge shall, unless he pleads guilty to being a habitual criminal, enquire whether he is a habitual criminal, and whether he is leading persistently a dishonest or criminal life:

Provided that a charge of being a habitual criminal shall not be inserted in an indictment—

(a) without the consent of the Attorney General; and

(b) unless not less than three days' notice has been given to the offender that it is intended to insert such charge;

and the notice to the offender shall specify the previous convictions upon which it is intended to found the charge.

Evidence of criminal life.

(5) Without prejudice to any right of the accused to tender evidence as to his character and repute, evidence of character and repute may, if the Court thinks fit, be admitted as evidence on the question whether the accused is or is not leading persistently a dishonest or criminal life.

Definition of "crime."
Ord. 14-1939,
s. 12.

(6) For the purposes of this section, the expression "crime" means any felony not punishable with death, or the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin, or the offence of obtaining goods or money by false pretences, or the offence of conspiracy to defraud, or any misdemeanor under section 29 of the Larceny Ordinance.

When sentence of preventive detention to take effect.

3. (1) The sentence of preventive detention shall take effect immediately on the determination of the sentence of imprisonment with hard labour, whether that sentence is determined by effluxion of time or by order of the Governor at such earlier date as the Governor, having regard to the circumstances of the case, may direct.

Governor may set apart prison or any part of prison for preventive detention.

(2) Persons undergoing preventive detention shall be confined in any prison or part of a prison which the Governor may set apart for the purpose, and shall (save as otherwise

provided by this Ordinance) be subject to the Prisons Ordinance and Rules for the time being in force as if they were undergoing imprisonment with hard labour, subject to such modifications in such Rules in the direction of less rigorous treatment as may be made by the Governor and Executive Council under the Imperial Act 1 and 2 Vict. c. 67.

(3) Persons undergoing preventive detention shall be subjected to such disciplinary and reformatory influences as may be best fitted to make them able and willing to earn an honest livelihood on discharge. Disciplinary and reformatory influences.

(4) The Governor shall appoint for every prison or part of a prison so set apart a Board of Visitors with such powers and duties as may be prescribed by such Prison Rules as aforesaid. Board of Visitors.

4. (1) The Governor shall, once at least in every three years during which a person is detained in custody under a sentence of preventive detention, take into consideration the condition, history, and circumstances of that person with a view to determining whether he shall be placed out on licence, and if so, on what conditions. Discharge on licence.

(2) The Governor may at any time discharge on licence a person undergoing preventive detention if satisfied that there is a reasonable probability that he will abstain from crime and lead a useful and industrious life, or that he is no longer capable of engaging in crime, or that for any other reason it is desirable to release him from confinement in prison, and shall so discharge such a person at the expiration of ten years from the commencement of the term of preventive detention, unless the Governor has definite reason to believe that, if released, he will relapse into crime. Considerations for granting licence.

(3) The Governor, if he does not so discharge such person at the expiration of ten years from the commencement of the term of preventive detention, shall make a special report to the Secretary of State, stating the grounds upon which he has decided not to discharge him. Report to Secretary of State.

(4) A person so discharged on licence may be discharged on probation, and on condition that he be placed under the supervision or authority of any society or person named in the Probation.

licence who may be willing to take charge of the case, or on such other conditions as may be specified in the licence.

Reports.

(5) The Superintendent of prisons shall report periodically to the Governor on the conduct and industry of persons undergoing preventive detention, and their prospects and probable behaviour on release, and for this purpose shall be assisted by a committee at each prison in which such persons are detained, consisting of such members of the Board of Visitors and such other persons of either sex as the Governor may from time to time appoint.

Committee.

Form of licence.

(6) A licence under this section may be in such form and may contain such conditions as may be prescribed by the Governor.

Exception.

(7) The provisions relating to licences to be at large granted under the Convicts Licences Ordinance shall not apply to persons undergoing preventive detention.

Provisions as to persons placed out on licence.

5. (1) The society or person under whose supervision or authority a person is so placed shall periodically, in accordance with regulations made by the Governor, report to the Governor on the conduct and circumstances of that person.

Revocation of licence.

(2) A licence under this Ordinance may be revoked at any time by the Governor, and where a licence has been revoked, the person to whom the licence related shall return to the prison, and, if he fails to do so, may be apprehended without warrant and taken to prison.

Forfeiture of licence.

(3) If a person absent from prison under such a licence escapes from the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, he shall be considered thereby to have forfeited the licence, and shall be taken back to prison.

Warrant.

(4) Any Magistrate may, on information on oath that the licence of any person discharged on licence has been forfeited under this section, issue a warrant for the apprehension of such person, and such person shall, on apprehension, be brought before the same or any other Magistrate, who, if satisfied that the licence has been forfeited, shall order such person to be remitted to preventive detention, and may commit him to any prison within his district until he can conveniently be removed

to a prison or part of a prison set apart for the purpose of the confinement of persons undergoing preventive detention.

(5) The time during which a person is absent from prison under such a licence shall be treated as part of the term of preventive detention: Provided that where such person has failed to return on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the unexpired residue of the term of preventive detention.

Term of detention and licence, how determined.

6. Without prejudice to any other powers of discharge, the Governor may at any time discharge absolutely any person discharged conditionally on licence under this Ordinance, and shall so discharge him at the expiration of five years from the time when he was first discharged on licence if satisfied that he has been observing the conditions of his licence and abstaining from crime.

Power of discharge.