

West Bengal Act XIX of 1950

THE WEST BENGAL SECURITY ACT, 1950.

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West Bengal Act XIX of 1950

THE WEST BENGAL SECURITY ACT, 1950.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 31st March, 1950.]

An Act to make special provision for the maintenance of public order by the prevention of illegal acquisition, possession or use of arms, the suppression of subversive movements endangering communal harmony or the safety or stability of the State and the suppression of goondas and for maintaining supplies and services essential to the life of the community.

WHEREAS it is expedient to make special provision for the maintenance of public order by the prevention of illegal acquisition, possession or use of arms, the suppression of subversive movements endangering communal harmony or the safety or stability of the State and the suppression of goondas and for maintaining supplies and services essential to the life of the community;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the West Bengal Security Act, 1950. Short title, extent, commencement and duration.
- (2) It extends to the whole of West Bengal.
- (3) It shall be deemed to have come into force on the 26th day of January, 1950.
- (4) It shall remain in force for a period of three years from the date on which it comes into force.
2. In this Act unless there is anything repugnant in the subject or context,—Definitions.
 - (1) “essential commodity” means food, water, fuel, light or power and includes such other thing as may be declared by the State Government by notification to be essential for the life of the community;
 - (2) “goonda” has the same meaning as in the Goondas Act, 1923;
 - (3) “notified” and “notification” mean notified and notification respectively in the *Official Gazette*;
 - (4) “prejudicial report” means any report, statement or visible representation, which, or the publishing of which, is, or is an incitement to the commission of, a subversive act as defined in clause (9);
 - (5) “prescribed” means prescribed by any order or rule made under this Act;

(Chapter I—Preliminary.—Section 2.)

- (6) "protected place" means a place declared under section 6 to be a protected place;
- (7) "protected area" means an area declared under section 7 to be a protected area;
- (8) "public servant" includes any public servant as defined in the Indian Penal Code and any servant of any local authority or railway administration and any person engaged in any employment or class of employment which the State Government may, from time to time, declare to be employment or class of employment essential to the life of the community; Act XLV of 1860.
- (9) "subversive act" means any act which is intended or is likely—
- (a) to endanger—
 - (i) communal harmony, or
 - (ii) the safety or stability of the State;
 - (b) to organise, further or help the illegal acquisition, possession or use of—
 - (i) arms, ammunition or military stores as defined in the Indian Arms Act, 1878, XI of 1878.
 - (ii) explosive substances as defined in the Explosive Substances Act, 1908, or VI of 1908.
 - (iii) corrosive substances or liquids;
 - (c) to further the activities of goondas;
 - (d) to prejudice the recruiting of, or the attendance of persons for service in, any police force or fire brigade or any other body of persons entered, enrolled or engaged as public servants or to tamper with the loyalty of such persons;
 - (e) to impede, delay or restrict—
 - (i) any work or operation, or
 - (ii) any means of transport or locomotion, necessary for the production, procurement, supply or distribution of any essential commodity, except in furtherance of an industrial dispute as defined in the Industrial Disputes Act, 1947. XIV of 1947.
- Explanation.*—(i) Acts *bona fide* indicating disapprobation of the policy or measures of the Government with a view to obtain their alteration by lawful means shall not be deemed to be acts which are intended or are likely to endanger the safety or stability of the State.
- (ii) An illegal strike or an illegal lock-out, as defined in section 24 of the Industrial Disputes Act, 1947, shall not be deemed to be an act in furtherance of an industrial dispute for the purposes of sub-clause (e).

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(Chapter I.—Preliminary.—Chapter II.—Access to certain places and areas.—Sections 3—6.)

- (iii) The illegal acquisition, storage or movement of an essential commodity shall be deemed to be an act which is intended and is likely to impede, delay and restrict the operation necessary for the procurement, supply and distribution of such commodity for the purposes of sub-clause (e).

3. The provisions of this Act and of any orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law:

Effect of the provisions of the Act when inconsistent with other law.

Provided that any action taken under the provisions of this Act for dealing with subversive activities shall have effect without prejudice to any action taken under the

IV of 1950.

Preventive Detention Act, 1950 for dealing with such activities.

4. No prohibition, restriction or disability imposed by or under this Act, unless otherwise expressly provided by an order made by the State Government or by an officer specially authorised by the State Government in this behalf, shall apply to anything done by, or under the direction of, any public servant acting in the course of his duty as such public servant.

Saving.

5. If any person to whom any provision of this Act relates or to whom any order made in pursuance of any such provision is addressed or relates or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made—

Non-compliance with the provisions of the Act or any orders made thereunder.

- (a) fails without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply with such provision or order, or

- (b) evades, or attempts to evade, by any means such provision, or order,

he shall be deemed to have contravened such provision or order.

CHAPTER II.

ACCESS TO CERTAIN PLACES AND AREAS.

6. (1) If as respects any place or class of places the State Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, the State Government may by order declare that place, or, as the case may be, every place of that class to be a protected place; and thereupon, for so long as the order is in force, such place or every place of such class, as the case may be, shall be a protected place for the purposes of this Act.

Protected places.

*(Chapter II.—Access to certain places and areas.—
Section 7.)*

(2) No person shall, without the permission of the State Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any protected place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a protected place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the State Government.

(4) Any police officer, or any other person authorised in this behalf by the State Government, may search any person entering, or seeking to enter, or being on or in, or leaving, a protected place and any vehicle, vessel, animal or article brought in by such person and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(5) If any person is in a protected place in contravention of this section, then without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the State Government.

(6) If any person is in a protected place in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**Protected
areas.**

7. (1) If the State Government considers it necessary or expedient to regulate the entry of persons into any area, the State Government may without prejudice to any other provisions of this Act, by order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Act.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by, an order made under sub-section (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any police officer, or any other person authorised in this behalf by the State Government, may search any person entering or seeking to enter, or being on or in, or leaving, a protected area, and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he

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*(Chapter II.—Access to certain places and areas.—
Sections 8, 9.)*

may be removed therefrom by or under the direction of any police officer on duty in the protected area or by any other person authorised in this behalf by the State Government.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

8. Any person who effects or attempts to effect entry into a protected place or protected area— Forcing or evading a guard.

(a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting, or preventing or controlling access to, such place or area, or

(b) after taking precautions to conceal his entry or attempted entry from any such person,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

9. (1) Without prejudice to any other provision of this Act, the State Government, as respects— Orders for certain places and areas.

(a) any place or area declared by it to be a protected place or protected area, or

(b) any other place or area in relation to which it appears to it to be necessary to take special precautions for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community,

may make orders for controlling or regulating the admission of persons to, and the conduct of persons in and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-section (1) in relation to any place or area may make provision—

(a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of any contravention of the provisions of this Act;

(b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-section to report his movements while in such place or area and to observe any other condition imposed upon him by a prescribed authority;

(c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity, as may be prescribed; and

(Chapter III.—Prevention of subversive acts.—
Section 10.)

- (d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

(3) An order made under this section in respect of a protected place or protected area may exempt such place or area from all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, or may direct that all or any of the said provisions shall apply, subject to such modifications as may be specified in the order.

(4) An order made under this section in respect of a place or area which is not a protected place or protected area may direct that all or any of the provisions of this Act which are expressed to apply to or in relation to a protected place or protected area, as the case may be, shall apply to or in relation to the place or area in respect of which the order is made either without modification or subject to such modification as may be specified in the order.

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

CHAPTER III.

PREVENTION OF SUBVERSIVE ACTS.

Sabotage.

10. (1) No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to,—

- (a) any building, vehicle, machinery, apparatus or other property used or intended to be used, for the purpose of Government or any local authority;

- (b) any railway (as defined in the Indian Railways Act, 1890), aerial ropeway (as defined in the Bengal Aerial Ropeways Act, 1923), tramway, road, canal, canal embankments, protective bunds, sluice-gates, lockgates, bridge, culvert, causeway, port, dockyard, lighthouse, aerodrome (as defined in the Indian Aircraft Act, 1934), air-field, air-strip or any installation thereon or any telegraph line or post (as defined in the Indian Telegraph Act, 1885);

IX of
1890.

Ben. Act
VII of
1923.

XXII of
1934.

XIII of
1885.

- (c) any rolling-stock of a railway or tramway or any vessel or aircraft;

- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory;

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(Chapter III.—Prevention of subversive acts.—Section 11.)

(e) any prohibited place as defined in sub-section (8) of section 2 of the Indian Official Secrets Act, 1923.

XIX of
1923.

(2) The provisions of sub-section (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to the State Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

11. (1) No person shall, without lawful authority or excuse,—

Prohibition of subversive acts, publications and communications.

(a) do any subversive act; or

(b) make, print, publish or distribute any document containing, or spread by any other means whatsoever, any prejudicial report.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces any prejudicial report, and any person who distributes or sells any report of that nature, knowing it to be of such nature, shall be deemed to have contravened this section.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both:

Provided that in any proceedings arising out of a contravention of this section,—

(a) in relation to the making or printing of any document, it shall be a defence for the accused to prove that the said document was made or printed, as the case may be,—

(i) before the Bengal Special Powers Ordinance, 1946, came into force, or

(ii) with the permission or under the authority of the State Government, or

(iii) as a proof intended for submission to the State Government or to a person or authority designated by the State Government in this behalf with a view to obtaining permission for its publication;

(b) in relation to the publication of any document it shall be a defence for the accused to prove that the said document was published—

(i) before the Bengal Special Powers Ordinance, 1946, came into force, or

(ii) with the permission or under the authority of the State Government.

Ben. Ord.
VI of 1946.

(Chapter III.—Prevention of subversive acts.—
Sections 12, 13.)

Proscrip-
tion, etc.,
of certain
documents.

12. (1) Where in the opinion of the State Government any document made, printed or published, whether before or after this Act comes into force, contains any prejudicial report, the State Government may, by order,—

- (a) require the author, printer, publisher or person in possession of such document not being a newspaper to inform the authority specified in the order of the name and address of any person concerned in the making of such report;
- (b) provide for the safe keeping by person in possession of such document and copies thereof;
- (c) require the delivery of such document and any copy thereof to any authority specified in the order;
- (d) prohibit the further publication, sale or distribution of such document, of any extract therefrom or of any translation thereof, including, in the case of a newspaper or other periodical, the publication, sale or distribution of any subsequent issue thereof;
- (e) declare such document and every copy of translation thereof or extract therefrom, to be forfeited to the State.

(2) Where in pursuance of sub-section (1) any document is required to be delivered to a specified authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where in pursuance of sub-section (1) any document has been declared to be forfeited to the State, any police officer may seize any copy thereof, wherever found and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Power to
impose
censor-
ship.

13. (1) The State Government may, for the purpose of preventing or suppressing subversive acts, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally,—

- (a) require that all matters, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order;

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*(Chapter IV.—Public Safety and Order.—
Sections 14, 15.)*

XXIII of
1931.

- (b) prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Indian Press (Emergency Powers) Act, 1931.

(2) If any person contravenes any order made under subsection (1), then, without prejudice to any other proceedings which may be taken against such person, the State Government may declare to be forfeited to the State every copy of any document published or made in contravention of such order and any press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making of such document.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Explanation.—In this Chapter “document” includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

CHAPTER IV.

PUBLIC SAFETY AND ORDER.

14. Any person who carries on his person or knowingly has in his possession or under his control any corrosive substance or liquid, under such circumstances as to give rise to a reasonable suspicion that he does not carry it on his person or have it in his possession or under his control for a lawful object, shall, unless he can show that he was carrying it on his person or that he had it in his possession or under his control for a lawful object, be punishable with imprisonment for a term which may extend to seven years, to which fine may be added.

Punish-
ment for
carrying
or possess-
ing any
corrosive
substance
or liquid.

15. Whoever commits dacoity, robbery, theft, or theft in a building, vessel or vehicle or criminal misappropriation, if the commission of such offence takes place,—

Definition
of looting.

- (a) during a riot or any disturbance of the public peace at or in the neighbourhood of the riot, or the place at which such disturbance of the public peace occurs, or
- (b) in any area in which a riot or disturbance of the public peace has occurred and before law and order has been completely restored in such area, or
- (c) in circumstances such that a person whose property is stolen or criminally misappropriated is not, as a consequence of rioting or any other disturbance of the public peace, present or able to protect such property,

is said to commit the offence of looting.

(Chapter IV.—Public Safety and Order.—
Sections 16—20.)Use of
force to
stop
looting.

16. Any police officer may use such force as may be necessary even to the causing of death in order to stop the commission of the offence of looting within his view.

Curfew.

17. (1) The Commissioner of Police in Calcutta and the District Magistrate elsewhere may, subject to the control of the State Government, by order direct that, subject to any exemption specified in the order, no person present within any area or areas specified in the order shall, between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(3) In this section "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866.

Ben. Act
IV of 1866.Ben. Act
II of 1866.Amend-
ment of
sections
127 and
128 of the
Code of
Criminal
Procedure,
1898.

18. In sections 127 and 128 of the Code of Criminal Procedure, 1898, for the words "or officer in charge of a police-station" the words "or any police officer of or above the rank of a head constable" shall be substituted.

Act V of
1898.Control of
proces-
sions,
meetings,
etc.

19. (1) The State Government may, by general or special order, prohibit, restrict or impose conditions upon, the holding of or taking part in processions, meetings or assemblies which, in its opinion, are likely to disturb the communal peace or to endanger the safety or stability of the State.

(2) Any police officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this section.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Control of
movements
of com-
modities,
articles or
things.

20. (1) If, in the opinion of the State Government, it is necessary or expedient so to do for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community, it may, by general or special order, prohibit or restrict the movement of any commodity, article or thing (including any vessel, vehicle, aircraft or animal) either generally or between any particular places or on any particular route.

(2) Every order made under sub-section (1) shall remain in force for such period not exceeding three months at any one time as may be specified in the order.

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(Chapter IV.—Public Safety and Order.—Section 21.)

(3) If any person contravenes any order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both and the Court trying the offence shall order that the commodity, article or thing (including any vessel, vehicle, aircraft or animal) in respect of which the offence has been committed shall be forfeited to the State.

21. (1) The State Government, if satisfied with respect to any particular person that he is doing or is about to do or is likely to do any subversive act, may, with a view to preventing him from doing such act, make an order—

Power to make orders restricting the movements or actions of certain persons.

- (a) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in West Bengal as may be specified in the order;
- (b) requiring him to reside or remain in such place or within such area in West Bengal as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;
- (c) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified in the order;
- (d) imposing upon him such restrictions as may be specified in the order in respect of his employment, business or movements, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions.

(2) An order made under sub-section (1) shall be served on the person in respect of whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for service of a summons, and upon such service such person shall be deemed to have had due notice thereof.

(3) If any person is in any area or place in contravention of an order made under the provision of this section, or fails to leave any area or place in accordance with the requirements of such an order then, without prejudice to the provisions of sub-section (4), he may be removed from such area or place by any police officer or by any person acting on behalf of the State Government.

(4) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

(Chapter IV.—Public Safety and Order.—
Sections 22—24.)

Duration of
orders
made
under sec-
tion 21(1).

22. An order made under sub-section (1) of section 21 shall be in force for such period not exceeding three months as may be specified in the order unless earlier cancelled by the authority making the order :

Provided that the State Government may, as often as it thinks fit, make, after considering all the circumstances of the case, a fresh order to the same effect and subject to the same limitations as to duration as in the first instance.

Control of
use of
loud-
speakers,
mega-
phones,
etc.

23. (1) The State Government may, for the purpose of preventing or suppressing subversive acts, by general or special order, prohibit, restrict, regulate or impose conditions on—

- (i) the use or operation in any street, square, public place or other open space of any apparatus for amplifying the human voice, or any reproduction of the human voice, such as a megaphone or an electrically operated loud-speaker; and
- (ii) the use, operation or driving in any street, square, public place or other open space of any vehicle which carries or has attached to it any apparatus referred to in clause (i).

(2) Any police officer may take such steps and use such force as may be reasonably necessary for securing compliance with any order made under this section and may seize any apparatus or vehicle in respect of which any contravention of any such order has in the opinion of such officer occurred :

Provided that any vehicle or apparatus seized by a police officer under this sub-section shall be conveyed without delay before a Magistrate who may give such directions as to its temporary custody as he thinks fit, but if no prosecution is instituted for a contravention of the order in respect of the vehicle or apparatus seized within a period which is in the opinion of the Magistrate reasonable, he shall direct its return to the person from whom it was seized.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and any Court trying such contravention may direct that any apparatus or vehicle in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the State.

Unlawful
drilling.

24. (1) The State Government may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) The State Government may, by general or special order, with a view to securing that no unauthorised exercise, movement, evolution or drill of a military nature is performed at any place, prohibit, restrict or impose conditions on the holding of, or taking part in, any such camp, parade, meeting or assembly, or such class thereof, as may be specified in the order.

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(Chapter IV.—Public Safety and Order.—Chapter V.—Miscellaneous Provisions.—Sections 25—27.)

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

25. (1) If the State Government is satisfied that the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member of the Union Forces or by a member of any official Police Force or of any force constituted under any law for the time being in force would be likely to prejudice the public safety, or the maintenance of public order, the State Government may, by general or special order, prohibit or restrict the wearing or display in public of any such dress or article of apparel.

Unofficial uniforms, etc.

(2) For the purposes of this section, a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

26. (1) Any officer of Government authorised in this behalf by general or special order of the State Government may, within such area as may be specified in the order, require any male person in that area to assist in the maintenance or restoration of law and order or in the protection of property for such period and in such manner as the officer may direct.

Powers to require the assistance of certain persons.

(2) If any person fails to comply with any lawful direction given to him under sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

CHAPTER V.

MISCELLANEOUS PROVISIONS.

27. (1) Without prejudice to any special provisions contained in this Act, the State Government may by order require any person to furnish or produce to any specified authority or person any such information or article in his possession as may be specified in the order, being information, or an article which the State Government considers it necessary or expedient in the interest of the prevention or suppression of subversive acts to obtain or examine:

Power to obtain information.

Provided that—

(i) no editor, printer or publisher of a newspaper shall be required to furnish or produce any such information or article in respect of any matter published in such newspaper, and

(ii) no person shall be required to furnish or produce any information or article which, under the provisions of the Indian Evidence Act, 1872, he cannot be compelled to furnish or produce.

(Chapter V.—Miscellaneous Provisions.—Sections 28, 29.)

(2) If any person fails to furnish or produce any information or article in compliance with an order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

False
statement.

28. If any person, when required by or under any of the provisions of this Act to make any statement or furnish any information, makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false, or not true in any material particular, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Requisitioning of
property.

29. (1) If in the opinion of the State Government it is necessary or expedient so to do for preventing or suppressing subversive acts or for maintaining supplies and services essential to the life of the community or for rehabilitating persons displaced from their residences or shops due to communal strife, it may by order in writing requisition any property, moveable or immovable, and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no place or premises used for the purpose of religious worship shall be requisitioned under this section.

(2) The State Government may use or deal with any property requisitioned under sub-section (1) in such manner as may appear to it to be expedient.

(3) The State Government shall pay compensation for any property requisitioned by it under sub-section (1), and the principles according to which and the manner in which such compensation is to be determined and given shall be as follows:—

(a) where the amount of compensation can be fixed by agreement, it shall be paid within three months in accordance with such agreement;

(b) where no such agreement can be reached, the amount of compensation shall be such as an arbitrator appointed in this behalf by the State Government may award:

Provided that in the case of immovable property, the arbitrator shall be a District Judge or an Additional District Judge;

(c) in awarding the amount of compensation, the arbitrator shall have regard to the pecuniary loss attributable to the requisition and to any other circumstances which he considers to be just and proper;

(d) in the case of immovable property, the State Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate another person for the said purpose;

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(Chapter V.—Miscellaneous Provisions.—Section 29.)

- (e) an appeal shall lie to the High Court against an award of the arbitrator except in cases where the amount of compensation awarded does not exceed five thousand rupees in lump or in the case of an amount payable periodically, two hundred and fifty rupees *per mensem*;
 - (f) in the case of moveable property where immediately before the requisition, the property was by virtue of a hire purchase agreement in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner and in default of agreement, in such manner as the arbitrator referred to in clause (b) may decide to be just and proper;
 - (g) the amount awarded as compensation by the arbitrator or ordered to be paid by the High Court on appeal in cases coming under clause (e) shall be paid within three months of the date of the award or order made by the arbitrator or the High Court;
 - (h) save as provided in this sub-section and in any rules made under section 39, nothing in any other law for the time being in force shall apply to an arbitration under this sub-section.
- (4) Where any immoveable property requisitioned under sub-section (1) is to be released from requisition, the State Government may, after making such enquiry, if any, as it considers necessary, specify by order in writing the person who appears to the State Government to be entitled to the possession of such property.
- (5) The delivery of possession of the immoveable property requisitioned under sub-section (1) to the person specified in an order made under sub-section (4) shall be a full discharge of the State Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of such property which any other person may be entitled by due process of law to enforce against the person to whom possession of such property is so delivered.
- (6) Where the person to whom possession of any immoveable property requisitioned under sub-section (1) is to be given cannot be found or is not readily ascertainable or has no agent or other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such property is released from requisition to be affixed on some conspicuous part of such property and publish the notice in the *Official Gazette*.
- (7) When a notice referred to in sub-section (6) is published in the *Official Gazette*, the immoveable property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such property for any period after the said date.

(Chapter V.—Miscellaneous Provisions.—Section 29.)

(8) Where any immoveable property requisitioned under sub-section (1) is released from requisition, compensation shall also be paid in respect of any damage done during the period of requisition to such property other than what may have been sustained by normal wear and tear or by natural causes. When the amount of such compensation can be fixed by agreement, it shall be paid in accordance with such agreement; where no such agreement can be reached, the matter shall be referred to an arbitrator and thereupon the provisions of sub-section (3) which are applicable to immoveable property shall, as far as may be, apply.

(9) The State Government may, with a view to requisitioning any property under sub-section (1), by order—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified;
- (b) direct that the owner, occupier or person in possession of the property shall not without the permission of the State Government dispose of it or where the property is a building, structurally alter it or where the property is moveable, remove it from the premises in which it is kept till the expiry of such reasonable period as may be specified in the order.

(10) Without prejudice to any powers otherwise conferred by this Act any person authorised in this behalf by the State Government may enter any premises between sunrise and sunset and inspect such premises and any property therein or thereon for the purpose of determining whether, and, if so, in what manner, an order under this section should be made in relation to such premises or property, or with a view to securing compliance with any order made under this section.

(11) (a) The State Government may, at any time by order in writing, require the owner of any immoveable property requisitioned under sub-section (1) to execute such repairs therein as it deems necessary and within such time as it may specify in the order.

(b) If the owner fails to execute or complete such repairs within the time specified, the State Government may cause such repairs to be executed or completed and the cost thereof shall be recoverable from the owner as if it were an arrear of land revenue.

(c) The State Government may, without prejudice to any other mode of recovery, deduct the cost referred to in clause (b) or any part thereof from the compensation payable to the owner under sub-section (3).

(12) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

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(Chapter V.—Miscellaneous Provisions.—Chapter VI.—
Supplementary and Procedural.—Sections 30—32.)

30. (1) Save as otherwise expressly provided in this Act, every authority, officer or person who makes any order in writing in pursuance of any provision thereof shall publish or serve or cause to be served notice of such order in such manner as may be provided in rules prescribed in this behalf.

Publica-
tion and
service of
notices.

(2) Where this Act empowers an authority, officer or person to take action by notified order, the provisions of sub-section (1) shall not apply in relation to such order.

(3) If in the course of any judicial proceedings, a question arises whether a person was duly informed of an order made in pursuance of any provision of this Act, compliance with sub-section (1), or in a case to which sub-section (2) applies, the notification of the order, shall be conclusive proof that he was so informed, but a failure to comply with sub-section (1)—

(i) shall not preclude proof by other means that he had information of the order; and

(ii) shall not affect the validity of the order.

(4) Any police officer and any other person authorised by the State Government in this behalf may, for any purpose connected with the prevention or suppression of subversive acts or with maintaining supplies and services essential to the life of the community or for carrying out the provisions of this Act, affix any notice to, or cause any notice to be displayed on, any premises, vehicle or vessel, and may for the purpose of exercising the power conferred by this section enter any premises, vehicle or vessel at any time.

(5) Any person authorised by the State Government in this behalf may, for any purpose mentioned in sub-section (4), by order direct the owner or other person in possession or control of any premises, vehicle or vessel to display any notice on, or in, the premises, vehicle or vessel in such manner as may be specified in the order.

CHAPTER VI.

SUPPLEMENTARY AND PROCEDURAL.

31. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of this Act or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

Attempts,
etc., to
contra-
vene the
provisions
of the
Act.

32. (1) In any area in which the State Government, as a consequence of apprehended danger to the public in such area, notifies in the *Official Gazette* in this behalf, any police officer may in any road, street, alley, public place, or open space, stop and search any person in such area for the purpose of ascertaining whether such person is carrying, in contravention of any law for the time being in force, any explosive or corrosive substance or liquid or any weapon

Special
provision
for
searches.

[West Ben. Act

(Chapter VI.—Supplementary and Procedural.—
Sections 33, 34.)

of offence or any article which may be used as a weapon of offence and may seize any such substance or liquid together with its container, if any, or any such weapon or article discovered during such search :

Provided that every such search shall be made with due regard to decency and that no woman shall be searched except by a woman.

(2) Any police officer authorised in this behalf by general or special order of a Deputy Commissioner of Police in Calcutta and the Superintendent of Police elsewhere, may enter and search any place, vessel, vehicle, aircraft or animal and, for that purpose, stop any vessel, vehicle, aircraft or animal and may seize any commodity, article or thing (including any vessel, vehicle, aircraft or animal) which, he has reason to believe, has been, is being or is about to be, used in contravening any order made under sub-section (1) of section 20 or for doing any subversive act.

Explanation.—In this sub-section “Calcutta” has the same meaning as in section 17.

(3) Anything seized under sub-section (1) shall be conveyed, and any commodity, article or thing (including any vessel, vehicle, aircraft or animal) seized under sub-section (2) shall be reported, without delay before a Magistrate who may give such directions as to the temporary custody thereof as he may think fit, so, however, that where no prosecution in respect thereof is instituted within a period in his opinion reasonable, the Magistrate may, subject to the provisions of any other law for the time being in force, give such orders as to the final disposal thereof as he deems expedient.

General
power of
arrest
without
warrant.

33. Any police officer may arrest without warrant any person who is reasonably suspected of having committed, or of committing a contravention of any order made under section 17.

Cognizance
of contra-
ventions of
the provi-
sions of
the Act or
orders
made
there-
under.

34. (1) No Court shall take cognizance of any alleged contravention of the provisions of this Act or of any order made thereunder, except on a report in writing of the facts constituting such contravention, made by a public servant.

(2) Proceedings in respect of a contravention of the provisions of this Act alleged to have been committed by any person may be taken before the appropriate Court having jurisdiction in the place where that person is for the time being.

(3) Notwithstanding anything contained in Schedule II to the Code of Criminal Procedure, 1898, a contravention of the provisions of section 10 shall be triable by a Court of Session, a Presidency Magistrate or a Magistrate of the first class. Act V of 1898.

(4) Any Magistrate or bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, if such Magistrate or bench of Magistrates thinks fit, on application in this behalf being made by the prosecution, try a contravention of any such

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(Chapter VI.—*Supplementary and Procedural.*—
Sections 35—38.)

provisions of this Act or orders made thereunder as the State Government may, by notified order, specify in this behalf in accordance with the provisions contained in sections 262 to 265 of the said Code.

35. (1) Any authority, officer, or person who is empowered by or in pursuance of the provisions of this Act to make any order, or to exercise any other power may, in addition to any other action prescribed by or under this Act, take, or cause to be taken, such steps as may, in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order, or for the effective exercise of such power. Power to give effect to orders, etc.

(2) Where in respect of any of the provisions of this Act there is no authority, officer or person empowered to take action under sub-section (1), the State Government may take, or cause to be taken, such steps as may in the opinion of the State Government be reasonably necessary for securing compliance with, or preventing or rectifying any breach of, such provision.

(3) For the avoidance of doubt it is hereby declared that the power to take steps under sub-section (1) or under sub-section (2) includes the power to enter upon any land or other property whatsoever.

36. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court. Saving as to orders.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

37. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is or is deemed to have been in good faith done or intended to be done in pursuance of this Act or any order made or deemed to have been made thereunder. Protection of action taken under the Act.

(2) No suit or other legal proceeding shall lie against Government for any damage caused or likely to be caused by anything which is or is deemed to have been in good faith done or intended to be done in pursuance of this Act or any order made or deemed to have been made thereunder.

38. The State Government may, by notified order, direct that any power or duty which is conferred or imposed by any provision of this Act upon the State Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also by any officer or authority subordinate to the State Government. Delegation of powers and duties of the State Government.

(Chapter VI.—Supplementary and Procedural.—
Sections 39—41.)Power to
make
rules.

39. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the documentary evidence of identity referred to in clause (c) of sub-section (2) of section 9 and the articles referred to in clause (d) of sub-section (2) of that section;
- (b) the procedure to be followed in arbitrations and the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal referred to in section 29;
- (c) the manner of publication and service of notices referred to in sub-section (1) of section 30.

Savings
and
validation.

40. Any rule or order made or deemed to have been made, any notification issued or deemed to have been issued, or any direction given or deemed to have been given under any provision of the West Bengal Security Ordinance, 1949, and in force immediately before the commencement of this Act shall on such commencement continue in force and so far as may be, be deemed to be a rule or order made, notification issued or direction given under the corresponding provision of this Act.

West Ben.
Ord. II of
1949.

And any liability or penalty incurred or deemed to have been incurred, any punishment awarded or deemed to have been awarded, any action taken or deemed to have been taken, any prosecution or any proceeding commenced or deemed to have been commenced under any provision of the said Ordinance shall be deemed to have been incurred or awarded, taken or commenced as if this Act were already in force when such liability or penalty was incurred or was deemed to have been incurred, or when such punishment was awarded or deemed to have been awarded or when such action was taken or was deemed to have been taken or when such prosecution or such proceeding was commenced or was deemed to have been commenced.

Indemnity
for acts,
etc., done
after the
expiry of
the West
Bengal
Security
Act, 1948,
or the
West
Bengal
Security
Ordinance,
1949.

41. (1) No suit, prosecution or other legal proceeding shall lie against a person in the service of Government or any person acting under the direction or order of or in aid or assistance of any person in the service of Government for or on account of or in respect of any act, matter or thing whatsoever, which even though the West Bengal Security Act, 1948, was not in force, was purported to have been done in pursuance of or under the said Act at any time between the expiry of the said Act and the publication of the West Bengal Security Ordinance, 1949, in the *Official Gazette* or which even though the West Bengal Security Ordinance, 1949, was not in force, was purported to have been done in pursuance of or under the said Ordinance at any time between the ceasing to be in force of the said Ordinance and the publication of this Act in the *Official Gazette*.

West Ben.
Act III
of 1948.

XIX of 1950.]

(Chapter VI.—Supplementary and Procedural.—Section 41.)

(2) No suit or other legal proceeding shall lie against Government for or on account of or in respect of any act, matter or thing whatsoever, which even though the West Bengal Security Act, 1948, was not in force, was purported to have been done in pursuance of or under the said Act at any time between the expiry of the said Act and the publication of the West Bengal Security Ordinance, 1949, in the *Official Gazette* or which even though the West Bengal Security Ordinance, 1949, was not in force, was purported to have been done in pursuance of or under the said Ordinance at any time between the ceasing to be in force of the said Ordinance and the publication of this Act in the *Official Gazette*.

(3) Sub-sections (1) and (2) shall have effect notwithstanding anything to the contrary in any other law for the time being in force.

West Ben.
Act III of
1948.

West Ben.
Ord. II of
1949.