

HIMACHAL PRADESH GOOD CONDUCT PRISONERS  
(TEMPORARY RELEASE) ACT, 1968

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THE HIMACHAL PRADESH GOOD CONDUCT PRISONERS  
(TEMPORARY RELEASE) ACT, 1968

(Act No. 12 of 1969)

Received the assent of the President of India on the 8th April, 1969, and was published in R. H. P. Extra., dated the 2nd June, 1969 at p. 465-469.

Amended, repealed or otherwise affected by:-

- (i) A.O. 1973, published in R.H.P. Extra., dated the 20th January, 1973 at p. 91-112.

An Act to provide for the temporary release of prisoners for good conduct on certain conditions

Enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement.—This Act may be called the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968.

(2) It extends to the whole of the [State of Himachal Pradesh].

(3) It shall come into force on such date as the Government may, by notification, in the Official Gazette, appoint.

For Statement of Objects and Reasons see R.H.P. Extra., dated the 30th November, 1968 at p. 1130.

For Extension of the Union territory of Himachal Pradesh" by A.O. 1973.

For Amendment w.e.f. 1-9-1971, vide Not. No. 2-45/71-Jails (Sectt.), dated the 17th Sept. 1971 (Appendix).

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RELEASE) ACT, 12 OF 1969 371

2. Definitions.—In this Act, unless the context otherwise requires:-

- (a) "District Magistrate" means the District Magistrate of the District within whose jurisdiction the prisoner, after his temporary release under this Act, is likely to reside during the period of his release;
- (b) "Government" means the Government of Himachal Pradesh;
- (c) "member of prisoner's family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner;
- (d) "notification" means notification published under proper authority, in the Official Gazette;
- (e) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (f) "Prescribed" means prescribed by rules made under this Act;
- (g) "prisoner" means a person confined in prison under a sentence of imprisonment;
- (h) "Superintendent of Jail" means the Superintendent of the jail in which the prisoner is undergoing his sentence of imprisonment.

3. Temporary release of prisoners on certain grounds.—(1) The Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the Government is satisfied that,—

- (a) a member of the prisoner's family has died or is seriously ill; or
- (b) the marriage of the prisoner's son or daughter is to be celebrated; or
- (c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence; or
- (d) it is desirable so to do for any other sufficient cause.

(2) The period for which a prisoner may be released shall be determined by the Government so as not to exceed,—

- (a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), two weeks;
- (b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and
- (c) where the prisoner is to be released on the ground specified in clause (c) of sub-section (1), six weeks.

(3) The period of release under this section shall not count towards the sentence of a prisoner.

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&  
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(4) The Government may, by notification, authorise any officer to exercise its power under this section in respect of all or any of the grounds specified therein.

4. Temporary release of prisoners on furlough.—(1) The Government or any other officer authorised by it in this behalf may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily, on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than five years, and who:

(a) has, immediately before the date of his temporary release, undergone imprisonment for a period of three years, excluding remission;

(b) has not during such period committed any jail offence and has earned at least three annual good conduct remissions:

Provided that nothing herein shall apply to a prisoner who,—

(i) is a habitual offender as defined in [clause (d) of section 2 of the Himachal Pradesh Habitual Offenders Act, 1969], 8 of 1970; or

(ii) has been convicted of robbery or dacoity or such other offence as the Government may, by notification, specify.

(2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter.

(3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence of a prisoner.

5. Exclusion of certain days in computing period under sections 3 and 4.—For the purpose of calculating the period of temporary release of a prisoner under sections 3 and 4, the days of departure from and arrival at the prison shall be excluded.

6. Prisoners not entitled to be released in certain cases.—Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

7. Journey expenses of poor prisoners to be borne by the Government.—If, on the report of the District Magistrate, the Government is satisfied that a prisoner's family cannot bear the expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the Government to such extent and in such manner as may be prescribed.

8. Liability of prisoner to surrender on expiry of release period and consequences of overstaying.—(1) On the expiry of the period for which a prisoner is released under this Act, he shall surrender himself to the Superintendent of the jail from which he was released.

<sup>1</sup>Subs. for "clause (3) of section 2 of the Punjab Habitual Offenders (Control and Reform) Act, 1932" by A.O. 1973.

(2) If a prisoner does not surrender himself as required by sub-section (1) within a period of ten days from the date on which he should have so surrendered, he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

(3) If a prisoner surrenders himself to the Superintendent of the jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the Superintendent of the jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the Superintendent of the jail, namely,—

(a) a maximum cut of five days' remission for each day of overstay;

(b) stoppage of canteen concession for a maximum period of one month;

(c) withholding concession of either interviews or letters or both for a maximum period of three months;

(d) the period of temporary release on furlough of the prisoner under section 4 shall not be counted towards his sentence;

(e) warning; and

(f) reduction from the status and grade of "Convict Watchman" or "Convict Overseer".

9. Penalty for failure to surrender.—Any prisoner who is liable to be arrested under sub-section (2) of section 8, shall be punishable with imprisonment of either description which may extend to two years or with fine or with both.

Explanation.—The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

10. Power make rules.—(1) The Government may, by notification, 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,—

(a) the execution by the prisoner (including his sureties) of bond for his good behaviour during the release period and for his surrender on the expiry of such period;

(b) the amount for which and the form and manner in which such bonds shall be furnished;

(c) the forfeiture of the amount of bond in case of breach of any of its terms;

(d) the conditions on which and the manner in which prisoners may be released temporarily under this Act;

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- (e) the manner in which the District Magistrate shall be consulted before a prisoner is released; and
- (f) the extent to which and the manner in which journey expenses of poor prisoners shall be borne by the Government.

(3) All rules under this section, shall, as soon as may be after they are made, be laid before the Legislative Assembly.

**11. Repeal and savings.**—The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (11 of 1962) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) is hereby repealed;

Provided that anything done or any action taken under the said Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.

NOTIFICATIONS AND RULES  
UNDER THE  
THE HIMACHAL PRADESH GOOD CONDUCT PRISONERS  
(TEMPORARY RELEASE) ACT, 1968  
Date of Commencement of the Act  
JAILS DEPARTMENT

Simla-2, the 17th August, 1971

**No. 2-45/71-Jails(Sectt).**—In exercise of the powers conferred upon him under sub-section (3) of section 1 of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 (12 of 1969) the Governor, Himachal Pradesh is pleased to appoint the 1st day of September, 1971 as the date on which the said Act will come into force in Himachal Pradesh.

(R.H.P. Extra., dated the 23rd August, 1971, p. 1120).

THE HIMACHAL PRADESH GOOD CONDUCT PRISONERS  
(TEMPORARY RELEASE) RULES, 1969  
HOME DEPARTMENT

Simla-2, the 1st December, 1969

**No. 1-9/69-Home(Jails).**—In exercise of the powers conferred by section 10 of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 (12 of 1969) the Administrator of Himachal Pradesh is pleased to make the following rules:—

1. **Short title.**—(1) These Rules may be called the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Rules, 1969.

(2) These rules shall come into force at once.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

- (a) "Act" means the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 (12 of 1969);
- (b) "Form" means a form appended to these rules;
- (c) "Inspector General" means the Inspector General of Prisons, Himachal Pradesh;
- (d) "Releasing Authority" means the Government or such other authority to whom the Powers of the Government are delegated under sub-section (4) of section 3 or sub-section (1) of section 4 of the Act;
- (e) "Section" means a section of the Act.

3. **Procedure for temporary release.**—(1) A prisoner desirous of seeking temporary release under section 3 or section 4 of the Act shall make an application in Form 'A-1', Form 'A-2', as the case may be, to the Superintendent of Jail. Such an application may also be made by an adult member of the prisoners' family.

(2) The Superintendent of Jail shall forward the application along with his report to the District Magistrate of the District to which the prisoner belongs, who after consulting the Superintendent of Police of his District shall forward the case with his recommendations to the Inspector General. The Inspector General will then report whether the prisoner is to be released or

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and submit the same to the Releasing Authority for orders. The District Magistrate, before making any recommendations, shall verify the facts and grounds on which release has been requested and shall also give his opinion whether the temporary release on parole or furlough is opposed on grounds of prisoner's presence being dangerous to the security of State or prejudicial to the maintenance of public order.

(3) If, after making such enquiry as it may deem fit, the Releasing Authority is satisfied that the prisoner is entitled to be released under the Act, the Releasing Authority may issue to the Superintendent of Jail through the [Inspector General] a duly signed and sealed warrant in Form B ordering the temporary release of the prisoner, specifying therein, (i) the period of release of the prisoner, (ii) the place or places which the prisoner is allowed to visit during the period of such temporary release and the amount for which the security bond and the surety bond shall be furnished by the prisoner in Forms 'C' and 'D' respectively:

Provided that the amount of the security bond and the surety bond shall not exceed twenty thousand rupees in each case.

(4) On receipt of the release warrant the Superintendent of Jail shall inform the prisoner concerned and such member of the prisoner's family as the prisoner may specify in that behalf for making arrangements for execution of the security and surety bonds in Forms C and D, respectively for securing the release of the prisoner. A copy of the release warrant shall also be sent by the Superintendent of Jail to the District Magistrate.

(5) On receipt of the information from the District Magistrate that the necessary bonds have been furnished, the Superintendent of Jail shall release the prisoner for such period as is specified in the release warrant.

(6) The Superintendent of Jail shall also immediately forward to the officer in charge of the Police Station within whose jurisdiction the place or places to be visited by the prisoner is or are situated, a copy of the warrant and the release certificate in Form E. The officer in charge of the Police Station shall keep a watch on the conduct and activities of the prisoner and shall submit a report relating thereto to the Superintendent of Jail who shall forward the same to the Inspector General.

(7) The date of release as well as the date on which the prisoner surrenders himself under sub-section (1) of section 8 of the Act shall be reported by the Superintendent of Jail to the Inspector General who will inform the Government accordingly.

4. **Committing of any offence during temporary release.**—(1) If the prisoner commits any offence during the period of his temporary release, the officer in charge of the Police Station shall forthwith, and in any case not later than twenty-four hours of his coming to know of the commission of the offence, send a report thereof to the Superintendent of Jail and to the Superintendent of Police of the District.

Section 10(1)

(2) On receipt of report under sub-rule (1) the Superintendent of Jail shall forthwith send the same to the Inspector General for

being forwarded to the Releasing Authority, who may thereafter cancel the release warrant.

Warrant to be cancelled where prisoner commits any offence.—If any major Jail offence is committed by the prisoner between the date of application for release and the receipt of the warrant for such release the prisoner shall not be released by the Superintendent without the previous approval of the Inspector General. In case the approval is not given, the Superintendent of Jail shall return the release warrant to the Releasing Authority through the Inspector General for cancellation indicating the details of the offence committed by the prisoner. The Releasing Authority may on receipt of such report, cancel the release warrant.

Section 10(1)

6. **Expenses of journey.**—Third class railway passes for journey both ways to the railway station nearest to the place of destination or the bus fare to the place of residing both ways will be issued by the Superintendent of Jail on the report of the District Magistrate [if] the Government is satisfied that the prisoner's family cannot bear the expenses of his journey from and to the prison after his temporary release.

Section 10(1)(f)

7. **Prisoner to be informed of the date of Surrender and consequences of failure thereof.**—(1) Before a prisoner is allowed to leave the Jail on temporary release under the Act, he shall be informed by the Superintendent of Jail personally, about the date on which he has to surrender himself to the Jail and of the consequences of his failure to do so, as provided in sections 8 and 9 of the Act.

(2) .....

Sections 8 & 10(2)(d)

8. **Release of Female Prisoners.**—A female prisoner ordered to be temporarily released under the Act shall be transferred to the Jail which is nearest to the place which she intends to visit during her temporary release. She shall be released from that Jail and shall return to that Jail. If she so desires, the Superintendent of the Jail from which she is transferred shall intimate to such member of her family as she may specify in that behalf that date of her release and the Jail from which she is to be released.

Section 10(2)(d)

9. **Release Certificate.**—(1) A prisoner who is temporarily released under these rules shall be given a release certificate in Form E, a copy whereof shall be retained in the Jail record.

Section 10(1)

10. **Forfeiture of Bonds and credit of amounts forfeited.**—The forfeiture of the amounts of security/surety bonds shall be regulated under the provisions of Code of Criminal Procedure, 1898, and the amount so forfeited shall be credited under receipt head XVIII-Misc. Jails Receipt Fines and Forfeitures.

Section 10(1) & 10(2)(c)

11. **Expenditure of Railway Bus fares.**—The expenditure on account of railway bus fares of deserving prisoners shall be met out of the contingencies of respective Jails under Major Head 22-Jails.

Section 10(1)

13.7

No. Home-B.(F)6-1/89-Jails-II  
Government of Himachal Pradesh  
Department of Home

From

The F.C.-cum-Secretary (Home) to the  
Govt. of Himachal Pradesh.

To

The Director General of Prisons,  
Himachal Pradesh, Shimla-3.

Dated:- Shimla-2, the 28.02.2001

Sub:-

~~Premature release of the prisoners undergoing  
sentence of life imprisonment-Eligibility  
criteria for constitution of Sentence Review  
Board and procedure to be followed.~~

Sir,

12-75

In supression of this Department letter No.  
Home-(B)(F)5-23/83, dated 12.8.1983 I am directed to say that  
consequent upon the recommendations of National Human Rights  
Commission circulated vide their D.O.No. 4/4/2000-PRP&P, dated  
11.5.2000, the premature release cases of prisoners undergoing  
sentence of life imprisonment will be considered as per the  
following norms henceforth:-

P101/C

1. STATE SENTENCE REVIEW BOARD

The State Sentence Review Board shall review  
the sentence awarded to the prisoners and recommend the pre-  
mature release in appropriate cases. The Review Board shall  
be a permanent body having following constitution:-

- 1. Secretary (Home) Chairman
- 2. Secretary (Law)-cum-  
Legal Remembrancer Member
- 3. A District & Sessions  
Judge nominated by  
High Court Member
- 4. Chief Probation Officer Member
- 5. A senior Police Officer  
nominated by DG of Police  
not below the rank of 19,  
of Police Member

Review

The recommendation of the Sentence Review Board shall not be invalid merely by reason of any vacancy in the Board or the inability of any Member to attend the Board meeting. The meeting of the Board shall not however, be held if the Quorum is less than 4 Members including the Chairman.

2. PERIODICITY OF THE BOARD'S MEETINGS

The State Sentence Review Board shall meet at least once in a quarter at the State Headquarter on date to be notified to Members at least ten days in advance with complete agenda papers.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

3. ELIGIBILITY FOR PREMATURE RELEASE

The following category of inmates shall be eligible to be considered for premature release by the State Sentence Review Board:-

(i) Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433-A Cr.P.C. shall be eligible to be considered for premature release from prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions.

(ii) All other convicted male prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 14 years of imprisonment inclusive of remissions and after completion of 10 years actual imprisonment i.e. without remissions.

(iii) All other convicted female prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.

Convicted prisoners undergoing the sentence of life imprisonment on attaining the age of 65 years provided he or she has served at least 7 years of imprisonment including remissions.

The convicted prisoners undergoing the

sentence of imprisonment for life and who are suffering from terminal diseases like cancer, TB, AIDS, irreversible kidney failure, cardio respiratory disease, leprosy and any other infectious disease etc. as certified by a Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions.

The following conditions shall be kept in view while considering/recommending the premature release cases of prisoners:-

- (a) Conduct of the prisoner during the imprisonment remained 'good'.
- (b) The prisoner has committed no jail offence.
- (c) The prisoner has returned from parole and furlough granted to him punctually.

4. INABILITY FOR PREMATURE RELEASE

The following category of convicted prisoners undergoing life sentence may not be considered eligible for premature release:-

- (i) Prisoners convicted of the offences such as rape, dacoity, terrorist crimes etc.
- (ii) Prisoners who have been convicted for organised murders in a premeditated matter and in an organised manner.
- (iii) Professional murderers who have been found guilty of murder by hiring them.
- (iv) Convicts who commit murder while involved in smuggling operations or having committed the murder of public servants on duty.

5. PROCEDURE FOR PROCESSING OF THE CASES FOR CONSIDERATION OF THE REVIEW BOARD

- (i) Every Superintendent of Central/District Jail who has prisoner(s) undergoing sentence of imprisonment for life, shall initiate the case of the prisoner at least 3 months in advance of the date when the prisoner become eligible for consideration of premature release as per the criteria laid down in this behalf.
- (ii) The Superintendent of jail shall prepare a comprehensive note in each case giving out the family and societal background of the prisoner, the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also reflect fully about the conduct



and behaviour of the prisoner in the jail during the period of his incarceration, behaviour/conduct during the period he was released on probation leave, change in his behavioural pattern and punishment awarded to him for such offence(s). A report shall also be made about his physical/mental health or any serious ailment with which the prisoner is suffering entitling his case special consideration for his premature release. The note shall also contain recommendation of the Jail Superintendent whether he favours for the premature release of the prisoner or not and in either case it shall be supported by adequate reasons.

(iii)

The Superintendent of Jail shall make reference to the District Magistrate/Superintendent of Police of the district where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However, in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the District Magistrate/Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the District Magistrate and Superintendent of Police to express their views in regard to the desirability of the premature release of the prisoner.

On receipt of the reference, the District Magistrate/Superintendent of Police shall cause an inquiry to be made in the matter through senior police officer of appropriate rank and based on their own assessment shall make their recommendations. While making the recommendations the District Magistrate/Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds apprehensions. In case the District Magistrate/Superintendent of Police are not in favour of the premature release of the prisoner, they shall justify the same with cogent reasons and material. They shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.



(v)

The Superintendent of Jail shall also make a reference to the Chief Probation Officer of the State and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family members and the society prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material. The Chief Probation Officer shall furnish his report/recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.

(vi)

On receipt of the report/recommendations of the District Magistrate/Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Director General/Addl. Director General/Inspector General of Prisons as the case may be, at least one month in advance of the proposed meeting of the Sentence Review Board. The D.G./A.D.G./I.G. of Prisons shall examine the case bearing in mind the report/recommendations of the Superintendent of Jail, District Magistrate/Superintendent of Police and the Chief Probation Officer and shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down for Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.

#### 6. PROCEDURE AND GUIDELINES FOR THE REVIEW BOARD

(i)

The D.G./A.D.G./I.G. of Prisons shall convene a meeting of the Sentence Review Board on a date and time at the State Headquarter, an advance notice of which shall be given to the Chairman and Members of the Board at least ten days in advance of the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of Distt. Magistrate/Superintendent of Police, Chief Probation Officer and that of D.G./A.D.G./I.G. of Prisons along with the copies