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PART II—Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th January, 1976/Magha 5, 1897 (Saka)

The following Act of Parliament received the assent of the President on the 25th January, 1976, and is hereby published for general information:—

THE MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) ACT, 1976

No. 14 of 1976

[*25th January* 1976.]

An Act further to amend the Maintenance of Internal Security Act 1971.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Maintenance of Internal Security (Amendment) Act, 1976.

26 of 1971.

Amendment of section 3.

2. In section 3 of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), in sub-section (3), for the words "twelve days" at both the places where they occur, the words "twenty days", and for the words "twenty-two days", the words "twenty-five days", shall be substituted, and shall be deemed to have been substituted with effect from the 25th day of June, 1975.

Amendment of section 14.

3. In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975, namely:—

"(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person:

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order or the expiry of the Defence and Internal Security of India Act, 1971, whichever is later.". 42 of 1971

Amendment of section 16A.

4. In section 16A of the principal Act,—

(a) after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 29th day of June, 1975, namely:—

"(2A) If the State Government makes a declaration under sub-section (2) that the detention of any person in respect of whom a detention order is made by an officer subordinate to that Government is necessary for dealing effectively with the emergency, the State Government shall be deemed to have approved such detention order and the provisions of sub-section (3) of section 3, in so far as they relate to the approval of the State Government, and of sub-section (4) of that section, shall not apply to such detention order.";

(b) for sub-section (5), the following sub-section shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975, namely:—

"(5) In making any review, consideration or reconsideration under sub-section (2), sub-section (3) or sub-section (4), the appropriate Government or officer may act on the basis of the information and materials in its or his possession without communicating or disclosing any such information or materials to the person concerned or affording him any opportunity of making any representation against the making under sub-section (2), or the making or confirming under sub-section (3), or the non-revocation under sub-section (4), of the declaration in respect of him.";

(c) in sub-section (7), in clause (i),—

(i) in the opening portion, for the words "the following sub-section", the words "the following" shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975;

(ii) in sub-section (3), as substituted by that clause, for the words "forward to the Central Government a report in respect

of the order", the words "report the fact to the Central Government" shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975;

(*iii*) after sub-section (*3*) aforesaid, the following shall be inserted, and shall be deemed to have been inserted with effect from the 17th day of October, 1975, namely:—

"(*4*) At any time after the receipt of a report under sub-section (*3*), the Central Government may require the State Government to furnish to the Central Government the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.";

(d) after sub-section (7), the following sub-sections shall be inserted, and shall be deemed to have been inserted with effect from the 29th day of June, 1975, namely:—

"(*8*) In the case of any person in respect of whom a declaration has been made by a State Government under sub-section (*2*) or a declaration has been made by a State Government or an officer subordinate to it or confirmed by the State Government under sub-section (*3*), or a declaration has not been revoked by a State Government under sub-section (*4*), the Central Government may, whenever it considers it necessary so to do, require the State Government to furnish to the Central Government the information and materials on the basis of which such declaration has been made or confirmed, or not revoked as the case may be, and such other information and materials as the Central Government may deem necessary.

(*9*) Notwithstanding anything contained in any other law or any rule having the force of law,—

(*a*) the grounds on which an order of detention is made or purported to be made under section 3 against any person in respect of whom a declaration is made under sub-section (*2*) or sub-section (*3*) and any information or materials on which such grounds or a declaration under sub-section (*2*) or a declaration or confirmation under sub-section (*3*) or the non-revocation under sub-section (*4*) of a declaration are based, shall be treated as confidential and shall be deemed to refer to matters of State and to be against the public interest to disclose and save as otherwise provided in this Act, no one shall communicate or disclose any such ground, information or material or any document containing such ground, information or material;

(*b*) no person against whom an order of detention is made or purported to be made under section 3 shall be entitled to the communication or disclosure of any such ground, information or material as is referred to in clause (*a*) or the production to him of any document containing such ground, information or material.".

Amendment of section 18.

5. In section 18 of the principal Act, for the words "detained under this Act", the words and figure "in respect of whom an order is made or purported to be made under section 3" shall be substituted, and shall be deemed to have been substituted with effect from the 25th day of June, 1975.

Validation.

6. Any act or thing done or purporting to have been done, before the 16th day of November, 1975, under the principal Act in respect of any person against whom an order of detention was made under that Act on or after the 25th day of June, 1975 or in respect of any such order of detention shall, for all purposes, be deemed to be as valid and effective as if the amendments made to the principal Act by sections 2 and 3, and clause (*a*) of section 4, of this Act had been in force at all material times.

Repeal and saving.

7. (*1*) The Maintenance of Internal Security (Third Amendment) Ordinance, 1975, and the Maintenance of Internal Security (Fourth Amendment) Ordinance, 1975, are hereby repealed. 16 of 1975. 22 of 1975.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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