



The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988

Act 28 of 1988

Keyword(s):
Hardcore Prisoner

Amendment appended: 20 of 2012, 21 of 2013, 8 of 2014

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

1988: HARYANA ACT, 28] GOOD CONDUCT PRISONERS

(TEMPORARY RELEASE)

THE HARYANA GOOD CONDUCT PRISONERS (TEMPORARY RELEASE)
ACT, 1988

(HARYANA ACT NO. 28 OF 1988)

Table of Contents

Sections

1. Short title, extent and commencement.
2. Definition.
3. Temporary release of prisoners on certain grounds.
4. Temporary release of prisoners on furlough.
5. Exclusion of certain days in computing period under sections 3 and 4.
6. Prisoners not entitled to be released in certain cases.
7. Journey expenses of poor prisoners to be borne by State Government.
8. Liability of prisoners to surrender on expiry of release period and consequences of overstaying.
9. Penalty for failure to surrender.
10. Power to make rules.
11. Repeal and savings.

1988: HARYANA ACT, 28] GOOD CONDUCT PRISONERS
(TEMPORARY RELEASE)

¹[THE HARYANA GOOD CONDUCT PRISONERS (TEMPORARY RELEASE)
ACT, 1988]

(HARYANA ACT NO. 28 OF 1988)

(Received the assent of the Governor of Haryana on the 8th September, 1988 and was first published in the Haryana Government Gazette (Extraordinary), Legislative Supplement part 1 of the 13th September, 1988.)

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by Legislation
1988	28	The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.	---

¹ For statement of Objects and Reasons see Haryana Government Gazette (Extraordinary), dated the 21st August, 1988, page

AN

ACT

To provide for the temporary release of prisoners for good conduct on certain conditions.

BE it enacted by the Legislature of the state of Haryana in the Thirty-ninth Year of the Republic of India as follow:-

Short title, extent and commencement.

1. (1) This Act may be called the Haryana Good conduct Prisoners (Temporary Release) Act, 1988.

(2) It extends to the whole of the State of Haryana.

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

Definitions.

2. 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) "member of prisoner's family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner;

(c) "prescribed" means prescribed by the rules made under this Act;

(d) "prisoner" means a person confined in prison or jail or other institution of like nature under a sentence of imprisonment for life or any other authority exercising the powers of a Criminal Court;

(e) "Superintendent of Jail" means the officer incharge of the prison or Jail or other institution of like nature in which the prisoner is undergoing his sentence of imprisonment for life or imprisonment.

Temporary release of prisoners on certain grounds.

3. (1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official Gazette 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 State Government is satisfied that-

(a) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or

(b) the marriage of prisoner himself, his son, daughter, grandson, grand daughter, brother, sister, sister's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for sloughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or

(d) it is desirable to do so for any other sufficient cause.

(2)The period for which a prisoner may be released shall be

determined by the State Government so as not to exceed-

- (a) where the prisoner is to be released on the grounds specified in clause (a) of sub-section (1), three 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 grounds specified in clause © of sub-section (1), six weeks;

Provided that the temporary release under clause © can be availed more than once during the year, which shall not, however, cumulatively exceed six weeks.

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

(4) The State Government may, by notification, authorize any officer to exercise its powers under this section in respect of all or any other ground specified there under.

Temporary release of prisoners on furlough.

4. (1) The State Government or any other officer authorized by it in this behalf may, in consultation with such other officer as may be appointed by the state Government, by notification, 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 four years and who-

- (a) has, immediately before the date of his temporary release, undergone continuous imprisonment for a period of three years, inclusive of the persistence detention, if any;
- (b) has not during such period committed any jail offence (except an offence punished by a warning) and has earned at least three annual good conduct remission;

provided that nothing herein shall apply to a prisoner who-

- (i) is a habitual offender as defined in sub-section (3) of section 2 of Punjab Habitual Offenders (Control and Reform) Act, 1952; or
- (ii) has been convicted of dacoit or such other offence as the State 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 undergone by a prisoner.

Exclusion of certain days in computing period under sections 3 and 4.

5. For the purpose of calculating the period of temporary release of a prisoner under sections 3 and 4, the dates of departure from and arrival at the prison shall be excluded.

Prisoners not entitle to be released in certain cases.

6. 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 State Government or an officer authorized 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.

Journey expenses of poor prisoners to be borne by State Government.

7. If on the report of the District Magistrate, the State Government is satisfied that 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 State Government to such extent and in such manner as may be prescribed.

Liability of prisoner to surrender on expiry of release period and consequences of overstaying.

8. (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.

(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 or Prison Officer without a warrant and shall be delivered over to the officer incharge of the prison from which he was released to undergo the un expired 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, 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) with holding 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;
- (f) reduction from higher to a lower class or grade.

Penalty for failure to surrender.

9. (1) 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 three years and with fine.

(2) An offence punishable under sub-section (1) shall be deemed to be cognizable and non-boilable

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

Power to make rules.

10. (1) The State 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 behavior 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 bonds 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;
- (e) the manner in which the District Magistrate or any other officer may be consulted in the matter of temporary release of a prisoner;
- (f) the extent to which and the manner in which journey expenses of poor prisoner shall be borne by the State Government;
- (g) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

Repeal and savings.

11. The Punjab Good Conduct Prisoner (Temporary Release) Act 1962 (Punjab Act No. 11 of 1962), in its application to the state of Haryana, is hereby repealed;

Provided that such repeal shall not affect,-

- (a) the previous operation of the act so repealed or anything duly done or suffered there under; or
- (b) any right, privilege, obligation or liability acquired or incurred under the Act so repealed; or
- (c) any penalty, forfeiture or punishment, incurred in respect of any offence committed against the Act so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

PART I

HARYANA GOVERNMENT

LAW AND LEGISLATIVE DEPARTMENT

Notification

The 1st October, 2012

No. Leg.25/2012.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 14th September, 2012, and is hereby published for general information:—

HARYANA ACT NO. 20 OF 2012

**THE HARYANA GOOD CONDUCT PRISONERS (TEMPORARY
RELEASE) AMENDMENT ACT, 2012.**

AN

ACT

*further to amend the Haryana Good Conduct Prisoners
(Temporary Release) Act, 1988.*

Be it enacted by the Legislature of the State of Haryana in the Sixty-third Year of the Republic of India.

1. This Act may be called the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2012.

Short title.

2. In the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter called the principal Act), in section 2, after clause (a), the following clause shall be inserted, namely:—

Amendment of
section 2 of
Haryana
Act 28 of 1988.

“(aa) “hardcore prisoner” means a person, who—

- (i) has been convicted of dacoity, robbery, kidnapping for ransom, murder with rape, serial killing, contract killing, murder or attempt to murder for ransom or extortion, causing grievous hurt, death or waging or attempting to wage war against Government of India, buying or selling minor for purposes of prostitution or rape with a woman below sixteen years of age or such other offence as the State Government may, by notification, specify; or
- (ii) during any continuous period of five years has been convicted and sentenced to imprisonment twice or more

for commission of one or more of offences mentioned in chapter XII or XVII of the Indian Penal Code, except the offences covered under clause (i) above, committed on different occasions not constituting part of same transaction and as a result of such convictions has undergone imprisonment atleast for a period of twelve months :

Provided that the period of five years shall be counted backwards from the date of second conviction and while counting the period of five years, the period of actual imprisonment or detention shall be excluded.

Explanation.—A conviction which has been set-aside in appeal or revision and any imprisonment undergone in connection therewith shall not be taken into account for the above purpose; or

- (iii) has been sentenced to death penalty; or
- (iv) has been detected of using cell phone or in possession of cell phone/SIM card inside the jail premises; or
- (v) failed to surrender himself within a period of ten days from the date on which he should have so surrendered on the expiry of the period for which he was released earlier under this Act;”.

Amendment of
section 4 of
Haryana
Act 28 of 1988.

3. Proviso to clause (b) of sub-section (1) of section 4 of the principal Act, shall be omitted.

Insertion of
section 5A of
Haryana
Act 28 of 1988.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. Special Provisions for hardcore prisoners.— Notwithstanding anything contained in sections 3 and 4, a hardcore prisoner shall not be released on temporary basis or on furlough :

Provided that a hardcore prisoner may be allowed to attend the marriage of his child, grand child or sibling; or death of his grand parent, parent, grand parent in-laws, parent-in-laws, sibling, spouse or child, under the armed police escort, for a period of forty eight hours to be decided by the concerned Superintendent Jail and intimation in this regard with full particulars of hardcore prisoner being released, shall be sent to the concerned District Magistrate and Superintendent of Police within twenty four hours. ”.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of
section 6 of
Haryana
Act 28 of 1988.

“6 (1) 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 State Government or an officer authorized 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 or cause reasonable apprehension of breach of peace.

(2) The District Magistrate, the State Government or the officer authorized to release the prisoner as provided in sections 3 and 4 of the Act shall take report from the Police within a specified time frame.

(3) In case of non-recommendation for release by the Police, the release granting authority shall pass a speaking order, if he disagrees with the report submitted to him.”.

6. In sub-section (1) of section 9 of the principal Act, for the words “three years and with fine”, the words “three years but shall not be less than two years” shall be substituted.

Amendment of
section 9 of
Haryana
Act 28 of 1988.

MANJIT SINGH,
Secretary to Government, Haryana,
Law and Legislative Department.

PART I

HARYANA GOVERNMENT

LAW AND LEGISLATIVE DEPARTMENT

Notification

The 3rd October, 2013

No. Leg. 24/2013.— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 30th September, 2013, and is hereby published for general information:—

HARYANA ACT NO. 21 OF 2013

**THE HARYANA GOOD CONDUCT PRISONERS
(TEMPORARY RELEASE) AMENDMENT
ACT, 2013**

AN

BILL

*further to amend the Haryana Good Conduct Prisoners
(Temporary Release) Act, 1988.*

Be it enacted by the Legislature of State of Haryana in the Sixty-fourth Year of the Republic of India as follows:-

1. This Act may be called the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013. Short title.
2. For clause (aa) of section 2 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, the following clause shall be substituted, Amendment of section 2 of Haryana Act 28 of 1988.
namely :—
 - (aa) "hardcore prisoner" means a person,—
 - (i) who has been convicted of—
 - (1) robbery under section 392 or 394 IPC;
 - (2) dacoity under section 395, 396 or 397 IPC;
 - (3) kidnapping for ransom under section 364-A IPC;
 - (4) murder or attempt to murder for ransom or extortion under section 387 read with 302 or section 387 read with 307 IPC;

-
- (5) rape with murder under section 376 read with 302 IPC;
 - (6) rape with a woman below sixteen years of age;
 - (7) rape as covered under section 376-A, 376-D or 376-E IPC;
 - (8) serial killing i.e. murder under section 302 IPC in two or more cases in different First Information Reports;
 - (9) murder under section 302 IPC, if the offender is a contract killer as apparent from the facts mentioned in the judgment of the case;
 - (10) lurking house trespass or house breaking where death or grievous hurt is caused under section 459 or 460 IPC;
 - (11) either of offence under sections 121 to 124-A IPC;
 - (12) immoral trafficking under section 3, 4 or 5 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956) involving minors or under section 366-A, 366-B, 372 or 373 IPC;
 - (13) offence under section 17(c) or 18(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985); or
 - (14) offence under section 14 of the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012); or
- (ii) who during a period of five years immediately before his conviction has earlier been convicted and sentenced for commission of one or more offences mentioned in Chapter XII or XVII of IPC, except the offences covered under clause (i) above, committed on different occasions not constituting part of the same transaction and as a result of such conviction has undergone imprisonment at least for a period of twelve months :

Provided that while counting the period of five years, the period of actual imprisonment or detention shall be excluded :

Provided further that if a conviction has been set-aside in appeal or revision, then any imprisonment undergone in connection therewith shall not be taken into account for the above purpose; or

-
- (iii) who has been sentenced to death penalty; or
 - (iv) who has been detected of using cell phone or in possession of cell phone/SIM card inside the jail premises; or
 - (v) who failed to surrender himself within a period of ten days from the date on which he should have so surrendered on the expiry of the period for which he was released earlier under this Act :

Provided that the State Government may, by notification include any offence in the list of offences mentioned above.

Explanation.— For the purposes of this section, “IPC” means the Indian Penal Code, 1860 (Central Act 45 of 1860).’.

RAJ RAHUL GARG,
Secretary to Government Haryana,
Law and Legislative Department.

HARYANA GOVERNMENT**LAW AND LEGISLATIVE DEPARTMENT****Notification**

The 31st March, 2014

No. Leg. 11/2014.—The following Act of the Legislature of the State of Haryana received the Assent of the Governor of Haryana on the 25th March, 2014, and is hereby published for general information :—

(HARYANA ACT NO. 8 OF 2014)

THE HARYANA GOOD CONDUCT PRISONERS (TEMPORARY RELEASE) AMENDMENT ACT, 2014.

AN

ACT

further to amend the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

Be it enacted by the Legislative of the State of Haryana in the Sixty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2014.

Amendment of section 5A of Haryana Act 28 of 1988.

2. For section 5A of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, the following section shall be substituted, namely :—

“5A. Special provisions for temporary release of hardcore prisoners.—(1) Notwithstanding anything contained in sections 3 and 4, no hardcore prisoner shall be entitled to temporary release or furlough :

Provided that a hardcore prisoners may be released on temporary basis to attend the marriage of his grand child or sibling, or death of his grand parent, parent, grand parent-in-laws, parent-in-laws, sibling, spouse, child or grand child under an armed police escort, for a period of forty-eight hours, to be decided by the concerned Superintendent of Jail :

Provided further that a hardcore prisoner may be released on temporary basis to attend the marriage of his daughter for ninety-six hours and for the marriage of his son for seventy-two hours under an armed police escort, to be decided by the concerned Superintendent of Jail. He shall intimate within twenty-four hours, the concerned District Magistrate and Superintendent of Police in this regard with full particulars of the hardcore prisoner being so released.

(2) Notwithstanding anything contained in sub-section (1), a hardcore prisoner, who has not been awarded death penalty, may be entitled for temporary release or furlough only if he has completed five years of sentence as a convict in jail excluding the under trial period and has not been awarded any minor or major penalty by the Superintendent of Jail, as judicially appraised by the concerned District and Sessions Judge :

Provided that if the prisoner so released under this sub-section violates any condition of temporary release or furlough, he shall be debarred from such release in future.”

RAJ RAHUL GARG,
Secretary to Government Haryana,
Law and Legislative Department.