

IMMORAL TRAFFICKING

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

[Act, No. 104 of 1956]

[30th December, 1956]

PREAMBLE

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for [the prevention of immoral traffic].

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:--

1. This Act has been extended to Dadra and Nagar Haveli by Reg. No. 6 of 1963, section 2 and Schedule I (w.e.f. 1-7-1965), to Goa, Daman and Diu by Reg. 11 of 1963, section 3 and Schedule and to the Union Territory of Pondicherry by Act 26 of 1968, section 3 and Schedule.
2. Substituted by Act 44 of 1986, section 2, for "the Suppression of Immoral Traffic in Women and Girls" (w.e.f. 26-1-1987).

Section 1 - Short title, extent and commencement

- (1) This Act may be called¹ [the Immoral Traffic (Prevention)] Act, 1956.
- (2) It extends to the whole of India.
- (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

1. Substituted by Act 44 of 1986, section 3, for " the Suppression of Immoral Traffic in Women and Girls" (w.e.f. 26-1-1987).
2. Came into force on 1-5-1958, vide G.S.R. 269, dated 16th April, 1958, published in the Gazette of India, Pt. II, section 3(i), p. 203.

Section 2 - Definitions

In this Act, unless the context otherwise requires,--

(a) "brothel" includes any house, room, ¹ [conveyance] or place or any portion of any house, room, ¹ [conveyance] or place, which is used for purposes ² [of sexual exploitation or abuse] for the gain of another person or for the mutual gain of two or more prostitutes;

³ [(aa) "child" means a person who has not completed the age of sixteen years;]

¹ [⁴ (b)] "corrective institution" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which ⁵ [persons], who are in need of correction, may be detained under this Act, and includes a shelter where ⁶ [undertrials] may be kept in pursuance of this Act;]

⁷ [(c) "mag is If ale" means a magistrate specified in (the second column of the Schedule ;its being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;)]

⁸ [(ca) "major" means a person who has completed the age of eighteen years;

(cb) "minor" means a person who has completed the age of sixteen years but has not completed the age of eighteen years;]

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

⁹ [***]

¹⁰ ¹¹ [(f) "prostitution" means sexual exploitation or abuse of persons for commercial purposes, and the expression "prostitute" shall be construed accordingly;]

(g) "protective home" means an institution by whatever name called (being an institution established or licensed as such under section 21), in which ¹² [persons], who are in need of care and protection, may be kept under this Act ¹³ [and where appropriate technically qualified persons, equipment and other facilities have been provided], but does not include --

(i) a shelter where ¹³ [undertrials] may be kept in pursuance of this Act. or

(ii) a corrective institution;]

(h) "public place" means any place intended for use by or accessible to, the public and includes any public conveyance;

(i) "special police officer" means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;

14 [(i)) "trafficking police officer" means a police officer appointed by the Central Government under sub-section (4) of section 13.]

1. Inserted by Act 46 of 1978, Section 2 (w.e.f. 2-10-1979).

2. Substituted by Act 44 of 1978, Section 2 (w.e.f. 2-10-1979).

3. Inserted by Act 44 of 1986, Section 5 (w.e.f. 2-10-1979).

4. Clause (aa) relettered as Clause (b) by Act 44 of 1986, Section 5 (w.e.f. 26-1-1987).

5. Substituted by Act 44 of 1986, Section 4 for "women and girls" (w.e.f. 26-1-1987).

6. Substituted by Act 44 of 1986, Section 5 for "female undertrials" (w.e.f. 26-1-1987).

7. Substituted by Act 46 of 1978, Section 2, for clause (c) (w.e.f. 2-10-1979).

8. Inserted by Act 44 of 1986, Section 5 (w.e.f. 26-1-1987)

9. Clause (e) omitted by Act 46 of 1978, Section 2 (w.e.f. 2010-1979).

10. Substituted by Act 46 of 1978, Section 2, for Clauses (f) and (g) (w.e.f. 2-10-1979).

11. Substituted by Act 44 of 1986, Section 5, for Clause (f) (w.e.f. 26-1-1987).

12. Substituted by Act 44 of 1986, Section 4, for "women and girls" (w.e.f. 26-1-1987).

13. Substituted by Act 44 of 1986, Section 5, for "female undertrials" (w.e.f. 26-1-1987).

14. Substituted by Act 44 of 1986, Section 5, for clause (j) (w.e.f. 26-1-1987).

Section 2A - Rule of construction regarding enactments not extending to Jammu and Kashmir

¹[2A. Rule of construction regarding enactments not extending to Jammu and Kashmir

Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

1. Inserted by Act 46 of 1978, section 3 (w.e.f. 2-10-1979).

Section 3 - Punishment for keeping a brothel or allowing premises to be used as a brothel

(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(2) Any person who-

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

¹[(2A) For the purposes of sub-section (2), it shall be presumed until the contrary is proved, that any person referred to in clause (a) or clause (b) of that sub-section, is knowingly allowing the premises or any part thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof are being used as a brothel, if,-

(a) a report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part thereof have been found to be used for prostitution as a result of a search made under this Act; or

(b) a copy of the list of all things found during the search referred to in clause (a) is given to such person.]

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (b) of sub-section (2) of any offence under that sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.

1. Inserted by Act 44 of 1986, section 6 (w.e.f. 26-1-1987).

Section 4 - Punishment for living on the earnings of prostitution

(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of¹[any other person] shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both²[and where such earnings relate to the prostitution of a child or a minor, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years].

³(2) Where any person over the age of eighteen years is proved -

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute,

it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1).]

1. Substituted by Act 44 of 1986, section 7, for "a woman or girl" (w.e.f. 26-1-1987).
2. Inserted by Act 44 of 1986, section 7 (w.e.f. 26-1-1987).
3. Substituted by Act 46 of 1978, section 4, for sub-section (2) (w.e.f. 2-10-1979).

Section 5 - Procuring, inducing or taking person for the sake of prostitution

5. Procuring, inducing or taking¹[person] for the sake of prostitution

(1) Any person who-

- (a) procures or attempts to procure a¹[person], whether with or without²[his] consent, for the purpose of prostitution; or
- (b) induces a¹[person] to go from any place, with the intent that³[he] may for the purpose of prostitution become the inmate of, or frequent, a brothel; or
- (c) takes or attempts to take a¹[person], or causes a¹[person] to be taken, from one place to another with a view to²[his] carrying on, or being brought up to carry on prostitution; or
- (d) causes or induces a¹[person] to carry on prostitution;

⁴[shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this sub-section,-

- (i) is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and
- (ii) is a minor, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years;]

⁵[***]

(3) An offence under this section shall be triable-

- (a) in the place from which a ¹[person] is procured, induced to go, taken or caused to be taken or from which an attempt to procure or take such¹[person] is made; or
- (b) in the place to which he may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made.

1. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

2. Substituted by Act 44 of 1986, section 4, for "her" (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986. section 4, for "she" (w.e.f. 26-1-1987).

4. Substituted by Act 44 of 1986, section 8, for certain words (w.e.f. 26-1-1987).

5. Sub-section (2) omitted by Act 44 of 1986, section 8 (w.e.f. 26-1-1987).

Section 6 - Detaining a person in premises where prostitution is carried on

6. Detaining a ¹ [person] in premises where prostitution is carried on

- (1) Any person who detains ² [any other person, whether with or without his consent],-
 - (a) in any brothel, or
 - (b) in or upon any premises with intent ² [that such person may have sexual intercourse with a person who is not the spouse of such person],

shall be punishable² [on conviction, with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years].

³ [(2) Where any person is found with a child in a brothel, it shall be presumed, unless the contrary is proved, that he has committed an offence under sub-section (1).

(2A) Where a child or minor found in a brothel, is on medical examination, detected to have been sexually abused, it shall be presumed, unless the contrary is proved, that the child or minor has been detained for purposes of prostitution or, as the case may be, has been sexually exploited for commercial purposes.]

(3)A person shall be presumed to detain a woman or girl in a brothel or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,-

(a) withholds from her any jewellery, wearing apparel, money or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewellery, wearing apparel, money or other property lent or supplied to her by or by the direction of such person.

(4)Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against such woman or girl at the instance of the person by whom she has been detained, for the recovery of any jewellery, wearing apparel or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by such woman or girl or for the recovery of any money alleged to be payable by such woman or girl.

1. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

2. Substituted by Act 44 of 1986, section 9, for certain words (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, sub-section (2) (w.e.f. 26-1-1987).

Section 7 - Prostitution in or in the vicinity of public places

¹ [(1) Any ² [person], who carries on prostitution and the person with whom such prostitution is carried on, in any premises,-

- (a) which are within the area or areas, notified under sub-section (3), or
- (b) which are within a distance of two hundred metres of any place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or magistrate in the manner prescribed,

shall be punishable with imprisonment for a term which may extend to three months.]

³ [(1A) Where an offence committed under sub-section (1) is in respect of a child or minor, the person committing the offence shall be punishable with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.]

(2) Any person who-

- (a) being the keeper of any public place knowingly permits prostitutes for purposes of their trade to resort to or remain in such place; or
- (b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1) knowingly permits the same or any part thereof to be used for prostitution; or
- (c) being the owner, lessor or landlord, of any premises referred to in sub-section (1), or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is wilfully a party to such use,

shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and also with fine ⁴[which may extend to two hundred rupees, and if

the public place or premises happen to be a hotel, the licence for carrying on the business of such hotel under any law for the time being in force shall also be liable to be suspended for a period of not less than three months but which may extend to one year:

Provided that if an offence committed under this sub-section is in respect of a child or minor in a hotel, such licence shall also be liable to be cancelled.

Explanation.-For the purposes of this sub-section, "hotel" shall have the meaning as in clause (6) of section 2 of the Hotel Receipts Tax Act, 1980 (54 of 1980).]

⁵ [(3) The State Government may, having regard to the kinds of persons frequenting any area or areas in the State, the nature and the density of population therein and other relevant considerations, by notification in the Official Gazette, direct that prostitution shall not be carried on in such area or areas as may be specified in the notification.

(4) Where a notification is issued under sub-section (3) in respect of any area or areas, the State Government shall define the limits of such area or areas in the notification with reasonable certainty.

(5) No such notification shall be issued so as to have effect from a date earlier than the expiry of a period of ninety days after the date on which it is issued.]

1. Substituted by Act 46 of 1978, section 5, for sub-section (1) (w.e.f. 2-10- 1979).

2. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

3. Inserted by Act 44 of 1986, section 10 (w.e.f. 26-1-1987).

4. Substituted by Act 44 of 1986, section 10, for "which may extend to two hundred rupees" (w.e.f. 26-1-1987).

5. Inserted by Act 46 of 1978, section 5 (w.e.f. 2-10-1979).

Section 8 - Seducing or soliciting for purpose of prostitution

Whoever, in any public place or within sight of, and in such manner as to be seen or heard from, any public place, whether from within any building or house or not-

- (a) by words, gestures, wilful exposure of his person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavours to tempt, or attracts or endeavours to attract the attention of, any person for the purpose of prostitution; or
- (b) solicits or molests any person, or loiters or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency, for the purpose of prostitution,

shall be punishable on first conviction with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and in the event of a second or subsequent conviction, with imprisonment for a term which may extend to one year, and also with fine which may extend to five hundred rupees:

¹[Provided that where an offence under this section is committed by a man, he shall be punishable with imprisonment for a period of not less than seven days but which may extend to three months.]

But, a man who commits any of offences under this section, shall be punishable with imprisonment for not less than 7 days but upto 3 months

1. Added by Act 44 of 1986, section 11 (w.e.f. 26-1-1987).

Section 9 - Seduction of a person in custody

9. Seduction of a¹[person] in custody

²[***) Any person who³[having the custody, charge or care of, or a position of authority over, any¹[person], causes or aids or abets the seduction for prostitution of that¹[person]]⁴[shall be punishable on conviction with imprisonment of either description for

a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years].

⁵[***]

1. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).
2. Brackets and figure "(1)" omitted by Act 44 of 1986, section 12 (w.e.f. 26-1-1987).
3. Substituted by Act 46 of 1978, section 6, for certain words (w.e.f. 2-10-1979).
4. Substituted by Act 44 of 1986, section 12, for certain words (w.e.f. 26-1-1987).
5. Sub-section (2) omitted by Act 44 of 1986, section 12 (w.e.f. 26-1-1987).

Section 10 - Release on probation of good conduct or after due admonition [Repealed]

¹ [10. Release on probation of good conduct or after due admonition

[Rep. by Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1986 (44 of 1986), section 13 (w.e.f. 26-1-1987).]]

1. Substituted by Act 46 of 1978, section 7, for section 10 (w.e.f. 2-10-1979).

Section 10A - Detention in a corrective institution

¹ [10A. Detention in a corrective institution

(1) Where-

(a) a female offender is found guilty of an offence under section 7 or section 8, ²[***]; and

(b) the character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction,

it shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for detention in a corrective institution for such term, not being less than two years and not being more than five years, as the court thinks fit:

Provided that before passing such an order-

(i) the court shall give an opportunity to the offender to be heard and shall also consider any representation which the offender may make to the court as to the suitability of the case for treatment in such an institution, as also the report of the probation officer appointed under the Probation of Offenders Act, 1958 (20 of 1958); and

(ii) the court shall record that it is satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to benefit by such instruction and discipline as aforesaid.

(2) Subject to the provisions of sub-section (3), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to appeal, reference and revision and of the Limitation Act 1963 (36 of 1963), as to the period within which an appeal shall be filed, shall apply in relation to an order of detention under sub-section (1) as if the order had been a sentence of imprisonment for the same period as the period for which the detention was ordered.

(3) Subject to such rules as may be made in this behalf, the State Government or authority, authorised in this behalf may, at any time after the expiration of six months from the date of an order for detention in a corrective institution, if it is satisfied that there is a reasonable probability that the offender will lead a useful and industrious life, discharge her from such an institution, without condition or with such conditions as may be considered fit, and grant her a written licence in such form as may be prescribed.

(4) The conditions on which an offender is discharged under sub-section (3) may include requirements relating to residence of the offender and supervision over the offender's activities and movements.]

1. Inserted by Act 46 of 1978, section 7 (w.e.f. 2-10-1979).
2. Certain words omitted by Act 44 of 1986, section 14 (w.e.f. 26-1-1987).

Section 11 - Notification of address of previously convicted offenders

(1) When any person having been convicted—

- (a) by a court in India of an offence punishable under this Act or punishable under section 363, section 365, section 366, section 366A, section 366B, section 367, section 368, section 370, section 371, section 372 or section 373 of the Indian Penal Code (45 of 1860), with imprisonment for a term of two years or upwards; or
- (b) by a court or tribunal in any other country of an offence which would, if committed in India, have been punishable under this Act or under any of the aforesaid sections with imprisonment for a like term,

is within a period of five years after release from prison, again convicted of any offence punishable under this Act or under any of those sections with imprisonment for a term of two years or upwards by a court, such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from such residence after release be notified according to rules made under section 23 for a period not exceeding five years from the date of expiration of that sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers or revision.

(4) Any person charged with a breach of any rule referred to in sub-section (1) may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified as his residence is situated.

Section 12 - Security for good behaviour from habitual offenders [Repealed]

[Rep. by the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1986 (44 of 1986) section 13 (w.e.f. 26-1-1987).]

Section 13 - Special police officer and advisory body

(1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that Government for dealing with offences under this Act in that area.

¹[(2) The special police officer shall not be below the rank of an Inspector of Police.

(2A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally:

Provided that no such power shall be conferred on-

(a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below the rank of an inspector;

(b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below the rank of a commissioned officer.]

(3) For the efficient discharge of his functions in relation to offences under this Act-

(a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and

(b) the State Government may associate with the special police officer a non- official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.

²[(4) The Central Government may, for the purpose of investigating any offence under this Act or under any other law for the time being in force dealing with sexual exploitation of persons and committed in more than one State, appoint such number of police officers as trafficking police officers and they shall exercise all the powers and discharge all the functions as are exercisable by special police officers under this Act with the modification that they shall exercise such powers and discharge such functions in relation to the whole of India.]

1. Substituted by Act 46 of 1978, section 9, for sub-section (2) (w.e.f. 2-10-1979).

2. Inserted by Act 44 of 1986, section 15 (w.e.f. 26-1-1987).

Section 14 - Offences to be cognizable

Notwithstanding anything contained in¹[the Code of Criminal Procedure, 1973 (2 of 1974)], any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code:

Provided that, notwithstanding anything contained in that Code,-

- (i) arrest without warrant may be made only by the special police officer or under his direction or guidance, or subject to his prior approval;
- (ii) when the special police officer requires any officer subordinate to him to arrest without warrant otherwise than in his presence any person for an offence under this Act, he shall give that subordinate officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being made; and the latter officer before arresting the person shall inform him of the substance of the order and, on being required by such person, show him the order;
- (iii) any police officer not below the rank of²[sub-inspector] specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape, or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he shall report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest was made.

1. Substituted by Act 46 of 1978, section 10, for "the Code of Criminal Procedure, 1898 (5 of 1893)" (w.e.f. 2-10-1979).
2. Substituted by Act 46 of 1978, section 10, for "inspector" (w.e.f. 2-10-1979).

Section 15 - Search without warrant

(1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer¹ [or the trafficking police officer, as the case may be,] has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a² [person] living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.

(2) Before making a search under sub-section (1), the special police officer¹ [or the trafficking police officer, as the case may be] shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search, and may issue an order in writing to them or any of them so to do:

³ [Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situate shall not apply to a woman required to attend and witness the search.]

(3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code (45 of 1860).

⁴ [(4) The special police officer or the trafficking police officer, as the case may be, entering any premises under sub-section (1) shall be entitled to remove therefrom all the persons found therein.]

(5) The special police officer¹ [or the trafficking police officer, as the case may be, after removing⁵ [the² [person]] under sub-section (4) shall forthwith produce⁶ [him] before the appropriate magistrate.

¹ [(5A) Any person who is produced before a magistrate under sub-section (5), shall be examined by a registered medical practitioner for the purposes of determination of the age of such person, or for the detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.

Explanation.-In this sub-section, "registered medical practitioner" has the same meaning as in the Indian Medical Council Act, 1956 (102 of 1956).]

(6) The special police officer¹ [or the trafficking police officer, as the case may be,] and other persons taking part in, or attending, and witnessing a search shall not be liable to any civil or criminal proceedings against them in respect of anything lawfully done in connection with, or for the purpose of, the search.

¹ [(6A) The special police officer or the trafficking police officer, as the case may be, making a search under this section shall be accompanied by at least two women police officers, and where any woman or girl removed under sub-section (4) is required to be interrogated, it shall be done by a woman police officer and if no woman police officer is available, the interrogation shall be done only in the presence of a lady member of a recognised welfare institution or organisation.

Explanation.-For the purpose of this sub-section and section 17A, "recognised welfare institution or organisation" means such institution or organisation as may be recognised in this behalf by the State Government.]

² [(7) The provisions of the Code of Criminal Procedure, 1973, (2 of 1974) shall, so far as may be, apply to any search under this section as they apply to any search made under the authority of a warrant issued under section 94 of the said Code.]

1. Inserted by Act 44 of 1986, section 16 (w.e.f. 26-1-1987).
2. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).
3. Substituted by Act 46 of 1978, section 11 (w.e.f. 2-10-1979).
4. Substituted by Act 44 of 1986, section 16, for sub-section (4) (w.e.f. 26-1-1987).
5. Substituted by Act 46 of 1978, section 11, for "the girl" (w.e.f. 2-10-1979).
6. Substituted by Act 44 of 1986, section for "her" (w.e.f. 26-1-1987).
7. Inserted by Act 46 of 1978, section 11 (w.e.f. 2-10-1979).

Section 16 - Rescue of person

¹[16. Rescue of²[person]]

(1) Where a magistrate has reason to believe from information received from the police or from any other person authorised by the State Government in this behalf or otherwise, that³[any person is living, or is carrying on, or is being made to carry on, prostitution in a brothel,] he may direct a police officer not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such²[person] and produce⁴[him] before him.

(2) The police officer, after removing the²[person], shall forthwith produce⁴[him] before the magistrate issuing the order.]

1. Substituted by Act 46 of 1978, section 12, section 16 (w.e.f. 2-10-1979).

2. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, section 17, for clauses (a) and (b) (w.e.f. 26-1-1987).

4. Substituted by Act 44 of 1986, section 4, for "her" (w.e.f. 26-1-1987).

Section 17 - Intermediate custody of persons removed under section 15 or rescued under section 16

¹[17. Intermediate custody of² [persons] removed under section 15 or rescued under section 16

(1) When the special police officer removing a³ [person] under subsection (4) of section 15 or a police officer rescuing a³ [person] under sub-section (1) of section 16, is for any reason unable to produce⁴[him] before the appropriate magistrate as required by sub-section (5) of section 15, or before the magistrate issuing the order under sub-section (2) of section 16, he shall forthwith produce⁴ [him] before the nearest magistrate of any class, who shall pass such orders as he deems proper for⁴ [his] safe custody until⁵ [he] is produced before the appropriate magistrate, or, as the case may be, the magistrate issuing the order:

Provided that no² [person] shall be-

(i) detained in custody under this sub-section for a period exceeding ten days from the date of the order under this sub-section; or

(ii) restored to or placed in the custody of a person who may exercise a harmful influence over him.

(2) When the ³ [person] is produced before the appropriate magistrate under sub section (5) of section 15 or the magistrate under sub-section (2) of section 16, he shall, after giving ⁴ [him] an opportunity of being heard, cause an inquiry to be made as to the correctness of the information received under sub-section (1) of section 16, the age, character and antecedents of the ³ [person] and the suitability of ⁴ [his] parents, guardian or husband for taking charge of ⁴ [him] and the nature of the influence which the conditions in ⁵ [his] home are likely to have on ⁴ [him] if ⁵ [he] is sent home, and, for this purpose, he may direct a probation officer appointed under the Probation of Offenders Act, 1958, (20 of 1958), to inquire into the above circumstances and into the personality of the ³ [person] and the prospects of his rehabilitation.

(3) The magistrate may, while an inquiry is made into a case under sub-section (2), pass such orders as he deems proper for the safe custody of the ³ [person]:

⁶ [Provided that where a person rescued under section 16 is a child or minor, it shall be open to the magistrate to place such child or minor in any institution established or recognised under any Children Act for the time being in force in any State for the safe custody of children:

Provided further that,] no ³ [person] shall be kept in custody for the purpose for a period exceeding three weeks from the date of such an order, and no ³ [person] shall be kept in the custody of a person likely to have a harmful influence over ⁴ [him].

(4) Where the magistrate is satisfied, after making an inquiry as required under sub section (2),-

(a) that the information received is correct; and

(b) that he is in need of care and protection,

he may, subject to the provisions of sub-section (5), make an order that such ³ [person] be detained for such period, being not less than one year and not more than three years, as may be specified in the order, in a protective home, or in such other custody as he shall, for reasons to be recorded in writing, consider suitable:

Provided that such custody shall not be that of a person or body of persons of a religious persuasion different from that of the ² [person] and that those entrusted with the custody of the ³ [person] including the persons in charge of a protective home, may be required to enter into a bond which may, where necessary and feasible, contain undertakings based on directions relating to the proper care, guardianship, education, training and medical and psychiatric treatment of the ³ [person] as well as supervision by a person appointed by the court, which will be in force for a period not exceeding three years.

(5) In discharging his functions under sub-section (2), a magistrate may summon a panel of five respectable persons, three of whom shall, wherever practicable, be women, to assist him; and may, for this purpose, keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in ² [persons].

(6) An appeal against an order made under sub-section (4) shall lie to the Court of Session whose decision on such appeal shall be final.]

1. Substituted by Act 46 of 1978, section 12, for section 17 (w.e.f. 2-10-1979).

2. Substituted by Act 44 of 1986, section 4, for "women and girls" (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, section 4, for "women and girl" (w.e.f. 26-1-1987).

4. Substituted by Act 44 of 1986, section 4, for "her" (w.e.f. 26-1-1987).

5. Substituted by Act 44 of 1986, section 4, for "she" (w.e.f. 26-1-1987).

6. Substituted by Act 44 1986, section 18, for "Provided that" (w.e.f. 26-1-1987).

Section 17A - Conditions to be observed before placing persons rescued under section 16 to parents or guardians

¹[17A. **Conditions to be observed before placing persons rescued under section 16 to parents or guardians**

Notwithstanding anything contained in sub-section (2) of section 17, the magistrate making an inquiry under section 17 may, before passing an order for handing over any person rescued under section 16 to the parents, guardian or husband, satisfy himself about the

capacity or genuineness of the parents, guardian or husband to keep such person by causing an investigation to be made by a recognised welfare institution or organisation.]

1. Inserted by Act 44 of 1986, section 19 (w.e.f. 26-1-1987).

Section 18 - Closure of brothel and eviction of offenders from the premises

(1) A magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of ¹[two hundred metres] of any public place referred to in sub-section (1) of section 7, is being run or used as a brothel by any person or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person incharge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the magistrate is satisfied that the house, room, place or portion is being used as a brothel or for carrying on prostitution, then the magistrate may pass orders--

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place or portion;

(b) directing that before letting it out during the period of one year²[, or in a case where a child or minor has been found in such house, room, place or portion during a search under section 15, during the period of three years,] immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the magistrate:

Provided that, if the magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.

(2) A court convicting a person of any offence under section 3 or section 7 may pass order under sub-section (1) without further notice to such person to show cause as required in that sub-section.

(3) Orders passed by the magistrate or court under sub-section (1) or sub-section (2) shall not be subject to appeal and shall not be stayed or set aside by the order of any court, civil or criminal and the said orders shall cease to have validity after the³[expiry of one year or three years, as the case may be]:

Provided that where a conviction under section 3 or section 7 is set aside on appeal on the ground that such house, room, place or any portion thereof is not being run or used as a brothel or is not being used by prostitutes for carrying on their trade, any order passed by the trial court under sub-section (1) shall also be set aside.

(4) Notwithstanding anything contained in any other law for the time being in force, when a magistrate passes an order under sub-section (1), or a court passes an order under sub-section (2), any lease or agreement under which the house, room, place or portion is occupied at the time shall become void and inoperative.

(5) When an owner, lessor or landlord, or the agent of such owner, lessor or landlord fails to comply with a direction given under clause (b) of sub-section (1) he shall be punishable with fine which may extend to five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he shall be deemed to have committed an offence under clause (b) of sub-section (2) of section 3 or clause (c) of sub-section (2) of section 7, as the case may be, and punished accordingly.

1. Substituted by Act 46 of 1978, section 13, for "two hundred yards" (w.e.f. 2-10- 1979).

2. Inserted by Act 44 of 1986, section 20 (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, section 20, for "expiry of one year" (w.e.f. 26-1-1987).

Section 19 - Application for being kept in a protective home or provided care and protection by court

¹ [19. Application for being kept in a protective home or provided care and protection by court

(1) A ² [person] who is carrying on, or is being made to carry on, prostitution, may make an application, to the magistrate within the local limits of whose jurisdiction ³ [he] is carrying on, or is being made to carry on prostitution, for an order that he may be-

(a) kept in a protective home, or

(b) provided care and protection by the court in the manner specified in subsection (3).

(2) The magistrate may, pending inquiry under sub-section (3), direct that the ² [person] be kept in such custody as he may consider proper, having regard to the circumstances of the case.

(3) If the magistrate, after hearing the applicant and making such inquiry as he may consider necessary, including an inquiry by a probation officer appointed under the Probation of Offenders Act, 1958 (20 of 1958), into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied that an order should be made under this section, he shall, for reasons to be recorded, make an order that the applicant be kept,-

(i) in a protective home, or

(ii) in a corrective institution, or

(iii) under the supervision of a person appointed by the magistrate,

for such period as may be specified in the order.]

1. Substituted by Act 46 of 1978, section 14, for section 19 (w.e.f. 2-10-1979).

2. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, section 4, for "she" (w.e.f. 26-1-1987).

Section 20 - Removal of prostitute from any place

(1) A magistrate on receiving information that any ¹[person] residing in or frequenting any place within the local limits of his jurisdiction is a prostitute, may record the substance of the information received and issue a notice to such ¹[person] requiring ²[him] to appear before the magistrate and

show cause why³[he] should not be required to remove⁴[himself] from the place and be prohibited from re-entering it.

(2) Every notice issued under sub-section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the notice on the¹[person] against whom the notice is issued.

(3) The magistrate shall, after the service of the notice referred to in sub-section (2), proceed to inquire into the truth of the information received, and after giving the¹[person] an opportunity of adducing evidence, take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such¹[person] is a prostitute and that it is necessary in the interests of the general public that such¹[person] should be required to remove⁴[himself] therefrom and be prohibited from re-entering the same, the magistrate shall, by order in writing communicated to the¹[person] in the manner specified therein, require²[him] after a date (to be specified in the order) which shall not be less than seven days from the date of the order, to remove⁴[himself] from the place to such place whether within or without the local limits of his jurisdiction, by such route or routes and within such time as may be specified in the order and also prohibit²[him] from re-entering the place without the permission in writing of the magistrate having jurisdiction over such place.

(4) Whoever-

(a) fails to comply with an order issued under this section, within the period specified therein, or whilst an order prohibiting²[him] from re-entering a place without permission is in force, re-enters the place without such permission, or

(b) knowing that any¹[person] has, under this section, been required to remove⁴[himself] from the place and has not obtained the requisite permission to re-enter it, harbours or conceals such¹[person] in the place,

shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with an additional fine which may extend to twenty rupees for every day after the first during which⁵[he] has persisted in the offence.

1. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).

2. Substituted by Act 44 of 1986, section 4, for "her" (w.e.f. 26-1-1987).

3. Substituted by Act 44 of 1986, section 4, for "she" (w.e.f. 26-1-1987).

4. Substituted by Act 44 of 1986, section 4, for "herself (w.e.f. 26-1-1987).
5. Substituted by Act 44 of 1986, section 4, for "she or he" (w.e.f. 26-1-1987).

Section 21 - Protective homes

(1) The State Government may in its discretion establish ¹ [as many protective homes and corrective institutions under this Act as it thinks fit and such homes and institutions], when established, shall be maintained in such manner as may be prescribed.

(2) No person or no authority other than the State Government shall, after the commencement of this Act, establish or maintain any ² [protective home or corrective institution] except under and in accordance with the conditions of a licence issued under this section by the State Government.

(3) The State Government may, on application made to it in this behalf by a person or authority issue to such person or authority a licence in the prescribed form for establishing and maintaining or as the case may be, for maintaining a ² [protective home or corrective institution] and a licence so issued may contain such conditions as the State Government may think fit to impose in accordance with the rules made under this Act:

Provided that any such condition may require that the management of the ² [protective home or corrective institution] shall, wherever practicable, be entrusted to women :

Provided further that a person or authority maintaining any protective home at the commencement of this Act shall be allowed a period of six months from such commencement to make an application for such licence:

³ [Provided also that a person or authority maintaining any corrective institution at the commencement of the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978 (46 of 1978), shall be allowed a period of six months from such commencement to make an application for such licence.]

(4) Before issuing a licence the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall follow such procedure as may be prescribed.

(5) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf at least thirty days before the date of its expiration, be renewed for a like period.

(6) No licence issued or renewed under this Act shall be transferable.

(7) Where any person or authority to whom a licence has been granted under this Act or any agent or servant of such person or authority commits a breach of any of the conditions thereof or any of the provisions of this Act or of any of the rules made under this Act, or where the State Government is not satisfied with the condition, management or superintendence of any² [protective home or corrective institution], the State Government may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing:

Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence shall not be revoked.

(8) Where a licence in respect of a² [protective home or corrective institution] has been revoked under the foregoing sub-section such protective home shall cease to function from the date of such revocation.

(9) Subject to any rules that may be made in this behalf, the State Government may also vary or amend any licence issued or renewed under this Act.

⁴ [(9A) The State Government or an authority authorised by it in this behalf may, subject to any rules that may be made in this behalf, transfer an inmate of a protective home to another protective home or to a corrective institution or an inmate of a corrective institution to another corrective institution or to a protective home, where such transfer is considered desirable having regard to the conduct of the person to be transferred, the kind of training to be imparted and other circumstances of the case:

Provided that,-

(a) no⁵ [person] who is transferred under this sub-section shall be required to stay in the home or institution to which⁵ [he] is transferred for a period longer than⁶ [he] was required to stay in the home or institution from which⁶ [he] was transferred;

(b) reasons shall be recorded for every order of transfer under this sub-section.]

(10) Whoever establishes or maintains a ² [protective home or corrective institution] except in accordance with the provisions of this section, shall be punishable in the case of a first offence with fine which may extend to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

1. Substituted by Act 46 of 1978, section 15, for certain words (w.e.f. 2-10-1979).
2. Substituted by Act 46 of 1978, section 15, for "protective home" (w.e.f. 2-10-1979).
3. Inserted by Act 46 of 1978, section 6 (w.e.f. 2-10-1979).
4. Inserted by Act 46 of 1978, section 15 (w.e.f. 2-10-1979).
5. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).
6. Substituted by Act 44 of 1986, section 4, for "she" (w.e.f. 26-1-1987).

Section 21A - Production of records

¹[21A. Production of records

Every person or authority who is licensed under sub-section (3) of section 21 to establish or maintain, or as the case may be, for maintaining, a protective home or corrective institution shall, whenever required by a court, produce the records and other documents maintained by such home or institution before such court.]

1. Inserted by Act 44 of 1986, section 21 (w.e.f. 26-1-1987).

Section 22 - Trials

No court, inferior to that of¹[a Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence under section 3, section 4, section 5, section 6, section 7 or section 8.

1. Substituted by Act 46 of 1978, section 16, for "a magistrate as defined in clause (c) of section 2" (w.e.f. 2-10-1979).

Section 22A - Power to establish special courts

¹ [22A. Power to establish special courts

(1) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the Official Gazette and after consultation with the High Court, establish one or more Courts of Judicial Magistrates of the first class, or as the case may be, Metropolitan Magistrates, in such district or metropolitan area.

(2) Unless otherwise directed by the High Court, a court established under sub-section (1) shall exercise jurisdiction only in respect of cases under this Act.

(3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of a court established under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(4) Subject to the foregoing provisions of this section a court established under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of section 11, or as the case may be, sub-section (1) of section 16, of the Code of Criminal Procedure, 1973 (2 of 1974), and the provisions of the Code shall apply accordingly in relation to such courts.

Explanation.-In this section, "High Court" has the same meaning as in clause (e) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974).]

1. Inserted by Act 46 of 1978, section 17 (w.e.f. 2-10-1979).

Section 22AA - Power of Central Government to establish special courts

¹[22AA. Power of Central Government to establish special courts

(1) If the Central Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act and committed in more than one State, it may, by notification in the Official Gazette and after consultation with the High Court concerned, establish one or more courts of Judicial Magistrates of the first class or Metropolitan Magistrates for the trial of such offences.

(2) The provisions of section 22A, shall so far as may be, apply to the courts established under sub-section (1) as they apply to courts established under that section.]

1. Inserted by Act 44 of 1986. section 22 (w.e.f. 26-1-1987).

Section 22B - Power of court to try cases summarily

¹[22B. Power of court to try cases summarily

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, if it considers it necessary so to do, direct that offences under this Act shall be tried in a summary way by a magistrate [including the presiding officer of a court established under sub-section (1) of section 22A] and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section it shall be lawful for the magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code.]

1. Inserted by Act 46 of 1978, section 17 (w.e.f. 2-10-1979).

Section 23 - Power to make rules

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for-

(a) the notification of any place as a public place;

¹ [(b) the placing in custody of persons for whose safe custody orders have been passed under sub-section (1) of section 17 and their maintenance;]

² [(bb) the discharge of an offender under sub-section (3) of section 10A from a corrective institution and the form of licence to be granted to such offender;]

³ [(c) the detention and keeping in protective homes or, as the case may be, in corrective institutions of ⁴ [[persons] under this Act and their maintenance;]

(d) the carrying out of the provisions of section 11 regarding notification of residence or change of or absence from residence by released convicts;

(e) the delegation of authority to appoint the special police officer under sub section (1) of section 13;

(f) the carrying into effect of the provisions of section 18;

⁵ [(g)(i) the establishment, maintenance, management and superintendence of protective homes and corrective institutions under section 21 and the appointment, powers and duties of persons employed in such homes or institutions;

(ii) the form in which an application for a licence may be made and the particulars to be contained in such application;

- (iii) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for a licence;
- (iv) the form of a licence and the conditions to be specified therein;
- (v) the manner in which the accounts of a protective home and a corrective institution shall be maintained and audited;
- (vi) the maintenance of registers and statements by a licensee and the form of such registers and statements;
- (vii) the care, treatment, maintenance, training, instruction, control and discipline of the inmates of protective homes and corrective institutions;
- (viii) the visits to and communication with such inmates;
- (ix) the temporary detention of⁴ [persons] sentenced to detention in protective homes or in corrective institutions until arrangements are made for sending them to such homes or institutions;
- (x) the transfer of an inmate from-
 - (a) one protective home to another, or to a corrective institution,
 - (b) one corrective institution to another or to a protective home, under sub-section (9A) of section 21;
- (xi) the transfer in pursuance of an order of the court from a protective home or a corrective institution to a prison of a⁶ [person] found to be incorrigible or exercising bad influence upon other inmates of the protective home or the corrective institution and the period of⁷ [his] detention in such prison;
- (xii) the transfer to a protective home or corrective institution of⁴ [persons] sentenced under section 7 or section 8 and the period of their detention in such home or institution;
- (xiii) the discharge of inmates from a protective home or corrective institution either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;
- (xiv) the grant of permission to inmates to absent themselves for short periods;

(xv) the inspection of protective homes and corrective institutions and other institutions in which⁴ [persons] may be kept, detained and maintained;]

(h) any other matter which has to be, or may be, prescribed.

(3) In making any rule under clause (d) or clause (g) of sub-section (2) the State Government may provide that a breach thereof shall be punishable with fine which may extend to two hundred and fifty rupees.

(4) All rules made under this Act shall, as soon as may be, after they are made, be laid before the State Legislature.

1. Substituted by Act 44 of 1986, section 23, for clause (b) (w.e.f. 26-1-1987).
2. Inserted by Act 46 of 1978, section 18 (w.e.f. 2-10-1979).
3. Substituted by Act 46 of 1978, section 18, for clause (c) (w.e.f. 2-10-1979).
4. Substituted by Act 44 of 1986, section 4, for "women and girls" (w.e.f. 26-1-1987).
5. Substituted by Act 46 of 1978, section 18, for clause (g) (w.e.f. 2-10-1979).
6. Substituted by Act 44 of 1986, section 4, for "woman or girl" (w.e.f. 26-1-1987).
7. Substituted by Act 44 of 1986, section 4, for "her" (w.e.f. 26-1-1987).

Section 24 - Act not to be in derogation of certain other Acts

Nothing in this Act shall be construed to be in derogation of the provisions of the Reformatory Schools Act, 1897 (8 of 1897), or any State Act enacted in modification of the said Act or otherwise, relating to juvenile offenders.

Section 25 - Repeal and savings

(1) As from the date of the coming into force in any State of the provisions other than section 1 of this Act, all State Acts relating to suppression of immoral traffic in¹ [persons] or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed.

(2) Notwithstanding the repeal by this Act of any State Act referred to in subsection (1), anything done or any action taken (including any direction given, any register, rule or order made, any restriction imposed) under the provisions of such State Act shall in so far as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

Explanation.- In this section the expression "State Act" includes a "Provincial Act".

1. Substituted by Act 44 of 1986, section 4, for "women and girls" (w.e.f. 26-1-1987).

Schedule 1 - THE SCHEDULE

¹ [THE SCHEDULE

[See section 2 (c)]

Section	Magistrate competent to exercise the powers
7(1)	District Magistrate.
11(4)	Metropolitan Magistrate or Judicial Magistrate of the first class,
15(5)	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
16	Metropolitan Magistrate, Judicial Magistrate of the first class, District
17	Magistrate or Sub-Divisional Magistrate.
18	District Magistrate or Sub-Divisional Magistrate.
19	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
20	District Magistrate, Sub-Divisional Magistrate or any Executive Magistrate specially empowered by the State Government.
22B	Metropolitan Magistrate or Judicial Magistrate of the first class.]

1. Inserted by Act 46 of 1978, section 19 (w.e.f. 2-10-1979).
2. The figures, brackets and words "12(4) Metropolitan Magistrate or Judicial Magistrate of first class" omitted by Act 44 of 1986, section 24 (w.e.f. 26-1-1987).

THE [PREVENTION OF IMMORAL TRAFFIC] (ORISSA) RULES, 1959

Notification No 4532 - P, dated 5th March 1959 - In exercise of the powers conferred by Section 23 of 1 [the Immoral Traffic (Prevention)] Act, 1956 (104 of 1956), the State Government do hereby make the following rules, namely:

Published Vide Notification No 4532 - P/Date 05/03/1959

1 Substituted Vide Orissa Gazette Part -IIIA No 3 date 20/01/1995

1) Short title and Commencement: -

- (1) These rules may be called the [Prevention of Immoral Traffic] (Orissa) Rules, 1959
- (2) They shall come into force at once.

(2) Definitions -

In these rules, unless the context otherwise requires

- a. "Act" means 1 [the Immoral Traffic (Prevention)] Act, 1956;
- b. "Board" means the Board of Visitors appointed by the State Government under Rule 14;
- c. "Chief Inspector" means the person appointed as such by the State Government to discharge the functions of the Chief Inspector under these rules;
- d. "Licence" means a licence granted under Section 21;
- e. "Forms" means a form appended to these rules;
- f. "Section" means a section of the Act; and
- g. "Superintendent" means the principal officer in charge a protective home and includes any person specially appointed to discharge the functions of a Superintendent under these rules.

3) Manner of notifying public places -

A copy of every order of the Superintendent of Police or the District Magistrate notifying place to be a public place under Section 7(1) shall be affixed to a conspicuous part of the public court house of the District Magistrate, as the case may be.

4) Placing of [child or minors] is safe custody –

- (1) Where a responsible and trust-worthy person belonging to the same religious persuasion as that of a 1 [child or minor] produced before a Magistrate under Sub-Section (1) of the Section 17 is willing to take charge of the 1 [child or minor] and the Magistrate, acting under Sub-section (1) or Sub-section (2) of that Section, passes an order placing the 1 [child or minor] in the safe custody of that person, such person shall execute before the Magistrate an undertaking in Form I.
- (2) If the person in whose custody the 1 [child or minor] is placed is no longer willing to fulfil the conditions of the undertaking, he may apply to the Magistrate for releasing him from the obligation to keep the [child or minor] in his custody.

5) Detention of woman or [child or minor] protective home –

Where, in the pursuance of 2 [***] Sub-section (2) of Section 17, or Sub-section (2) of Section 19 a Magistrate passes an order directing that a woman or 1 [child or minor] be detained in a protective home, a warrant of detention in Form II shall be prepared in duplicate and shall be forwarded to the Superintendent of the protective home who shall retain one copy and return the other to the Magistrate after making an endorsement therein that the woman or 1 [child or minor] referred to in the warrant has been duly taken in his charge.

6) Notification of residence etc, by convicted offenders –

1. A convicted offender who has been ordered by the Court under Section 11 to notify his residence or may change of, or absence from, such residence shall immediately after his release, report himself to the police officer having jurisdiction over his place or residence and shall also leave his correct address with such police officer. Thereafter, he shall report himself to such police officer once in every month till the expire of the period for which he is required to notify his residence.
2. When any such offender intends to change his place of residence, he shall intimate his intention to the police officer having jurisdiction over his place of residence and also furnish to him the correct address of the intended place of residence. In every such case, the police officer shall send to the police officer having jurisdiction over the new place of residence a report of the intended change of residence together with full particulars of the convicted offenders.
3. As soon as the offender takes up his residence in the new place, he shall report himself to the police officer having jurisdiction over the place and shall also report himself to such

officer once in every month till the expiry of the period for which he is required to notify his residence.

4. If for any reason, the offender does not change his place of residence as originally intended he shall report the fact to the police officer having jurisdiction together with the reason for such change of intention.
5. The provisions of Sub-rules (2), (3) and (4) shall apply to temporary absence from the place of residence for any period exceeding seven days: Provided that, in the case of temporary absence the convicted offender shall again report to the police officer as soon as he returns to the usual place of residence.
6. Any person who commits breach of any of sub-rules (1) to (5) shall be punishable with fine which may extend to two hundred and fifty rupees.

Explanation - In this rule, 'Police Officer' means the officer in charge of the police station.

1 Substituted vide Orissa Gazette Part -IIIA No 3 date 20/01/1995

2 Omitted vide Orissa Gazette Part - IIIA No 3 dated 20/01/1995

7. Licensing of protective homes –

1. Application for a licence under Section 21 (3) shall be made in Form III to the State Government.
2. On receipt of an application for a licence, the State Government shall cause full and complete investigation to be made through an officer or authority appointed in this behalf before issuing the licence. The said officer or authority before reporting on the application the State Government shall record the statements of the applicant or applicants and the special Police Officer appointed for the area. In addition, he may make enquiries from such social welfare workers or respectable persons of the locality as he may deem necessary. The State Government, if satisfied, that the applicant or applicants is or are fit person or persons to whom a licence may be granted, may grant a licence in Form IV, which if granted will remain in force for a period of one year.
3. An application for the renewal of a licence shall be made in Form V at least thirty days before the date of its expiration. The licence may thereupon be renewed for a like period.
4. No licence issued or renewed under this rules shall be transferable.
5. The management of every licensed home shall, wherever practicable, be entrusted to women.

6. The licensee shall comply with all the conditions of the licence and the provisions of [Prevention of Immoral Traffic] (Orissa) Rules, 1959 and shall maintain all registers accounts in the manner hereinafter laid and shall submit all statements and returns as prescribed in the rules.

8. **Admission into protective homes –**

1. On the admission of a woman or a [child or minor] into a protective home under the provisions of the Act, she shall be examined by the Superintendent, who shall record in the Inmate's Register in Form VI the particulars required to be shown in that register.
2. The woman or [child or minor] into a protective home shall then be supplied with a new set of cloth and the clothes worn by her at the time of admission shall be destroyed, if they are in rags or in filthy and verminous condition. The clothing of every woman and [the child or minor] to be detained for a period of two years or more shall, if they are not liable to be destroyed, be sold and the proceeds credited to the personal account of the woman or [child or minor] shall be returned to the parents, guardians or relatives of the woman or [child or minor] and if is not possible to do so, shall be washed, tied up in a bundle and stored and returned to the woman or [child or minor] on her discharge. She shall be given a bath, which shall be of a disinfecting nature.
3. The Superintendent or some other official of the protective home considered suitable by such Superintendent shall then take the woman or [child or minor] to the nearest hospital for examination. If there is no hospital within a reasonable distance the medical examination of the woman or [child or minor] shall be conducted by the nearest qualified lady doctor.² [If the inmate is a male; he shall be examined by male Doctor].
4. Women or [child or minor] found to be suffering from any venereal disease shall be kept as far as possible separate from the other inmates of the protective home. Women or [child or minor] is suffering from minor ailments shall be treated by the Medical Officer of the protective home. If any woman or [child or minor] is suffering from serious illness she shall be taken to the nearest hospital immediately for admission and report shall immediately be sent to the Superintendent of Police of the district and to the nearest Magistrate in other cased. A copy of the report shall be simultaneously sent to the Chief Inspector.

² *Added ibid*

9) **Admission of children accompanying inmates into protective homes –**

1. A child below seven years of age in the case of its mother who is detained or order to be kept in the protective home may also be admitted to home along with her, if it cannot be

placed with its relatives or otherwise properly provided for. If any question arises as to child is below seven of age or not, such question shall be determined by the Superintendent.

2. A child born in the home after the admission of the inmate into the protective home may remain with her.
3. No child shall be kept in the protective home if it has completed the age of seven years. On a child completing such age, the Superintendent shall intimate the fact to the Chief Inspector with a view to his making arrangements, if possible, to place the child with its relatives.
4. A child kept in the protective home shall be allowed such diet and clothing as the medical officer attached to the protective home may think fit.

10) History Ticket –

A record hereinafter referred to as history ticket shall be maintained in respect of each inmate in Form VII.

11) Medical examination –

Every inmate shall be medically examined and weighted once in every month and the result of such examination and weighment shall recorded in the history ticket of the inmate. A statement in Form VII shall be submitted before the 10th of every month to the Chief Inspector showing the weighment statistics of the protective home.

12) Strength of establishment of protective homes –

The strength of the establishment including medical officer of each protective home, whether established or licensed by the State Government shall be determined by the State Government from time to time in consultation with the Chief Inspector. The State Government, in consultation with the Chief Inspector, may also assign duties to them. Necessary arrangements for medical aid of the inmates shall be made by the State Government in consultation with the Chief Inspector.

13) Superintendent –

The Superintendent shall generally be responsible for the observance of all Rules and Orders, the supervision of the subordinate staff and the maintenance of discipline among the inmates. He/she shall in his/her own hand writing, maintain an office journal in which shall be recorded daily, every occurrence of importance connected with the management of the homes, which is not otherwise disposed of in the registers of correspondence and which it is desirable to note for future guidance. The Journal shall be forwarded to the Chief

Inspector at the end of the month, who shall immediately return it after perusal with such remarks as he/she may consider necessary.

14) Duties of superintendent-

The following duties, in addition to other duties assigned by the State Government, from time to time, appertain to the Superintendent:

- i. The Superintendent shall be in charge of general supervision and sanitation of the home and the health of inmates;
- ii. The Superintendent shall be responsible for the discipline of the subordinate staff;
- iii. The Superintendent shall be in charge of maintaining general accounts disbursing bills, cost of jewellery, cash and other belongings of the inmates;
- iv. The Superintendent shall be in charge of office correspondence, interviews with visitors and showing them round the home;
- v. The Superintendent shall arrange meetings of the Board of Visitors and submit immediately the reports of the meetings to Chief Inspector;
- vi. The Superintendent shall make surprise inspection of provision stores at least once a month, shall visit the home at uncertain hours and check that everything is in order.
- vii. The Superintendent shall be responsible for submitting statements and returns under these rules in addition to such statements and returns as may be prescribed by the State Government in consultation with Chief Inspector from time to time;
- viii. The Superintendent may grant casual leave to the subordinate staff;
- ix. The Superintendent shall visit the home at least twice a month at uncertain intervals;
- x. The Superintendent shall be responsible for the purchase of provisions and by informing himself/herself of the current bazaar rates shall satisfy himself/herself that the full amount of food is purchased and the rates are reasonable. He/she shall also see the rations weight and served out the cooks, and shall, with medical officer, inspect the food daily, when it is cooked and ready for distribution, to make sure that it is properly cooked and that the full quantity reaches the inmates. The result of the Superintendent's inspection of food shall be noted in the office journal;
- xi. The Superintendents shall be responsible for all property of the protective home and all money and stores received.

7:45AM to 8:15 AM	...	Breakfast
8:15 AM to 9:30 AM	...	Washing personal clothes
10:00AM to 1PM	...	School or workshop
1PM to 2PM	...	Lunch and Rest
2PM to 4:30PM	...	Needlework and handicraft or workshops
4:30PM to 6:30PM	...	Games, gardening and bath
6:30PM to 6:45PM	...	Evening prayer
6:45PM to 7:30PM	...	Night meal
7:30PM to 9:30PM	...	Study or reading

NOTE - Daily routine may be suitable modified on Sunday and other gazetted holidays. Saturday shall be observed as half holidays.

22) Diet of inmates in protective homes –

All inmates of protective homes shall have diet in accordance with scale to be fixed by the State Government and instruction issued by them in this behalf.

23) Supply of clothing etc to inmates or protective homes –

1. Each inmate shall be supplied with a steel box, an unbreakable plate, tumbler and mirror.
2. Clothing and bedding to inmates shall be supplied in accordance with the scale to be fixed by the State Government.
3. Every inmate shall be given for the purpose of washing clothes half a bar of washing soap per months and for bathing purposes half a cake of toilet soap per month and 304 oz of soap-nut powder per week. Every inmate shall also be provided with four grams of oil daily for dressing of hair and half an ounce of oil once a week for oil bath. A sufficient number of mirrors shall be placed in each dormitory.

24) Living space for inmates of protective homes –

Every inmate shall have a separate bed with a flat space of not less than 8'x5' per bed. A place shall be allotted for every inmate in the dormitory.

25) Religious and moral institution –

1. The protective homes shall not be used as a means of fostering any one religion at the expense of others and the principle of secularism shall be maintained strictly.
2. Religious and moral instructions to inmates of protective home's shall be allowed on condition that no proselytising is carried on under the cloak of such instruction and that nothing is done to make the inmates away from the religion professed by them. The instruction may be in the form of prayer, worship and occasional bhajans with music.
3. The Superintendent shall endeavour to secure the services of honorary instructions; and in their absence the senior members of the staff, preferably the teachers shall be deputed to impart religious and moral instructions to the inmates of their own faith at least once a week.

26) Libraries for protective homes –

Every protective home shall be provided with a library of suitable books with a catalogue. The choice of books shall be made by the superintendent and approved by the Chief Inspector, who will be responsible for the suitability of the books chosen.

27) Attendance of the inmates of protective homes before police or Magistrate –

Any inmate whose attendance is required before the police or before a Court shall be permitted to leave the protective home for the purpose, only on receipt of a written requisition signed by the Superintendent of Police and by the police officer not below the rank of a Deputy Superintendent of Police elsewhere or of a summons issued by the Court of a competent jurisdiction. The inmate shall in such cases be accompanied by the Superintendent or by any other members of the staff considered suitable by the Superintendent.

28) Escape and recapture of inmates of protective homes –

1. The Superintendent shall give immediate notice of the escape or recapture of any inmate of the home to –
 - a. the Chief Inspector;
 - b. the nearest police station; and
 - c. the Superintendent of Police in case the protective home is situated in his jurisdiction and District Magistrate elsewhere.

2. On receipt of a notice of escape under Sub-rule (1) the Officer-in-Charge of the police station shall take necessary steps to recapture the inmate and to bring her back to the home from which she escaped.

29) **Death of inmates of protective homes –**

In case of death of any of the inmates, the Superintendent shall immediately report the circumstances of the case to the Superintendent of Police of the District and to the nearest Magistrate elsewhere. Copies of the report shall also be sent to the Chief Inspector, and to the parents or guardians or relatives, as the case may be of the inmate.

30) **Transfer of inmates –**

1. The Chief Inspector may for any of the following reasons, to be recorded in writing, order the transfer of an inmate detained in a protective home to any other protective home:
 - a. when the transfer is for the welfare of the inmate or is in the interest of discipline;
 - b. when there is no accommodation in the protective home; or;
 - c. for any other special reasons.
2. The Superintendent shall, before effecting such transfer, satisfy himself/herself that the inmate to be transferred is in a fit state of health to undergo the transfer.
3. The inmate shall be escorted by a woman employee of the protective home considered suitable for the purpose by the Superintendent of the home. The Superintendent may, if necessary, take the assistance of the Special Police Officer of the area.
4. All the records and personal property, if any, relating to the inmate transferred shall be handed over to the escort to be delivered to the Superintendent of the protective home to which the inmate is transferred.
5. The Superintendent of the home to which the inmate is transferred shall, on the arrival of the inmate and after due verification acknowledge the correct receipt of the documents and property.
6. The total period of detention or stay of an inmate ordered by the Court shall on no account be increased by any transfer under Sub-rule (1)

31) **Visit to and communications with the inmates of protective home**

1. No inmate shall be allowed to see visitors or receive letters without the express permission of the Superintendent and no male visitor shall be permitted to interview any of the

inmates except in the presence of the Superintendent or any other member of the staff of the home so authorised by the Superintendent in this behalf.

2. Every inmate newly admitted to a protective home all be allowed reasonable facilities for seeing or communicating with her relatives, friends or legal advisors with a view to the preparation of an appeal.
3. Parents and guardians may visit inmates of a protective home on Saturdays and Sundays between 4PM and 6PM. For very urgent reasons, visitors may be allowed on other days and at other times with the special permission of the Superintendent. The privilege of receiving visitors may be refused on the orders of the Superintendent as a punishment for misconduct by the inmate, or if it is used to introduce any prohibited article into the home or if the parents or guardian has or is likely to have, in the opinion of the Superintendent, a bad influence on an intimate or inmates or for any other sufficient cause. The Superintendent shall record his/her reasons for such refusal in the official journal.
4. Every inmate shall be allowed to write or receive a letter once a month during the period of the detention or stay in the home, subject to the condition of good conduct.
5. If the address of the parents or guardians is known, they shall be given notice of any serious illness of the inmates and the Superintendent shall answer any reasonable enquiries made by the parents or guardians.
6. Inmates shall be allowed, if they so desire to write special letter in order to inform the parents or guardians of their transfer from one protective home to another. This shall not be counted as a letter for the purpose of Sub-rule (4).
7. No letter shall be delivered to or sent by an intimate unless the Superintendent has satisfied himself/herself that its transmission is unobjectionable.
8. The Superintendent may at his/her discretion grant interviews or allow the dispatch or receipt of letters at short intervals than those provided in Sub-rule (4) in spite of the inmates' misconduct, if he/she considers that special or urgent grounds exist for such concession.
9. A register shall be maintained by the Superintendent for recording the visits of parents or guardians of the inmates of the home in cases of refusal.
10. A register of correspondence between the inmates and their parents and guardians shall be maintained.

32) Permission to inmates to absent themselves for short periods from protective homes –

With the previous sanction of the Chief Inspector in very special cases, the Superintendent may grant to any inmate leave of absence for a period not exceeding a week on the death of the parent or to visit the parent or guardian who is seriously ill. The chief Inspector may extend the leave granted, by a period not exceeding two weeks. The leave granted at any time be cancelled without assigning any reasons and the inmate recalled.

33) Discipline and punishment –

1. The following acts are forbidden in a protective home and every inmate who willfully commits any of them shall be deemed to have wilfully disobeyed the regulations of the protective home.
 - a. quarrelling with any other inmate;
 - b. any assault or use of criminal force;
 - c. use of insulting, obscene or threatening language;
 - d. immoral or indecent or disorderly behaviour;
 - e. wilfully disabling herself for labour;
 - f. contumaciously refusing to work;
 - g. wilful idleness and negligence at work;
 - h. wilful damage to the home property;
 - i. wilful mismanagement of work;
 - j. tampering with or defacing history tickets, records, documents or tools;
 - k. receiving, possessing or transferring any prohibited article;
 - l. feigning illness;
 - m. wilfully bringing a false accusation against any officer or inmate;
 - n. omitting or refusing to report, as soon as it comes to her knowledge, the occurrence of any fire, any plot or conspire any escape, attempt or preparation to escape or any attacked or preparation for attack upon any inmate or official of the home;
 - o. conspiring to escape or to assist in escaping;
 - p. answering untruthfully any question put by an officer of the home or a visitor;

- q. refusing to eat food or wilfully destroying food;
- r. committing a nuisance in any part of the home;
2. The Superintendent may award any of the following punishments for the act or acts specified in Sub-rule (1);
 - a. deprivation of play hours;
 - b. temporary cessation of visits from parents or guardians; and
 - c. change to labour of severe nature for a period not exceeding three months.
3. A Punishment Book shall be maintained by the Superintendent, who shall record full particulars of the punishments inflicted by him/her together with the nature of offences, the names of the offenders and the number of various punishments awarded to them.
4. An extract from the Punishment Books shall be sent by the Superintendent to the Chief Inspector before the 10th of every month.

34. Prohibited articles –

Liquor, intoxicating drugs including opium and ganja shall be the prohibited articles and shall not be introduced, received, possessed or transferred in the protective home.

35) Treatment of mental cases-

When an inmate of a protective home is sent to a Government Mental Hospital for observation or treatment, action shall be taken by the Superintendent under Section 6(2) of Indian Lunacy Act, 1912 (4 of 1912) for obtaining reception orders. An inmate who is taken to the Government Mental Hospital with such reception order shall be treated as a 'Civil Patient'.

36) Removal to civil hospitals for treatment –

1. Whenever the Medical Officer of a protective home considers it necessary to remove an inmate to a Civil Hospital for treatment as an indoor patient, he shall draw up a full statement of the case and forward the same to the Superintendent, who shall forthwith cause the inmate concerned to be sent to the hospital temporarily.
2. The inmate shall immediately proceed under escort to the Hospital and present herself to the Officer-in-Charge of Hospital.
3. The inmate shall be an indoor patient in the Hospital and shall not leave it until formally discharged there from.

4. The authorities of the Hospital shall give intimation to the Superintendent concerned before discharging the inmate from Hospital. On receipt of intimation, the Superintendent shall arrange for an escort to fetch the inmate. The railway warrant, subsistence allowance, but or other fare and any other allowances necessary for the inmates and the escort shall be given to the escort so arranged by the Superintendent. Such charges shall also be paid to the escort while removing the inmate from the protective home to the Hospital.
5. When an inmate is removed for treatment to a Civil Hospital, no charges shall be made against the protective home for the treatment and diet given to the inmate in the Hospital.

37) Period spent in hospital –

When an inmate is sent to a Government Mental Hospital or as an indoor patient to a Civil Hospital, the period spent by her in such Hospitals and in going there and return there from shall be deemed to be part of the period of her detention or stay in the protective home.

38) Discharge of inmates of protective homes –

1. The State Government may at any time order an inmate of a protective home to be discharged either absolutely or on such conditions as they approve. In the event of a breach of any such conditions the inmate shall be liable to be arrested and brought back to the Home.
2. The Superintendent shall at the end of each month prepare a statement of inmates who have to be discharged in the subsequent month and read out the Statement to the inmates.
3. On the day of discharge, the inmate's state of health shall be recorded by the Superintendent in the inmate's Register. He/she shall compare the entries in the warrant of committal with those in the Register and shall satisfy himself/herself that they agree and the term of the inmate has been duly served. He/she shall then sign the endorsement for discharge on the warrant certifying to the due expire of the term. The belonging of the inmate shall be handed over to her and the details recorded in the appropriate column in the inmate's Register. The inmate shall be given food for the day before she is discharged. The inmate shall if necessary be provided with suitable clothing.
4. Every discharged inmate whose destination is on or near a line of railway shall be supplied with a railway ticket of the lowest class. Payment of the fare shall be made by boat, bus or steamer, the inmate shall be provided with passage or passage money to the halting place nearest to his/her destination at the lowest rate. Every inmate who has to proceed a distance of more than 5 miles by road or more than 3 hours' Journey by rail or other mode of conveyance shall on discharge be given subsistence allowance at the rate of 8 annas, if the journey will be completed on the following morning and one rupee per day otherwise.

5. The State Government may at any time order suitable inmates of the Protective Homes to be admitted into Homes established under the After-Care Programmes of the State Government.
6. A Disposal Register in Form X shall be kept in every Protective Home in which full particulars shall be entered of the manner in which every inmate is disposed of on discharge and of her after-care. Every effort shall be made by the Superintendent to keep in touch with the inmates for at least 3 years after their discharge.
7. An annual return in Form XI shall be made by the Superintendent to the Chief Inspector. The remarks made by the Board of Visitors from time to time during the year to which the return relates shall also be communicated to the Chief Inspector with the return.

39) Marriage of inmates of protective homes –

1. The Superintendent may, if possible, arrange for marriage of an inmate with a man of her own religion; provided that her previous consent in writing and that of her parent or guardian, if she has not attained the age of eighteen years, is obtained; and provided that no monetary consideration is accepted from the person to whom the inmate is married or from any person interested in him. In case there is no parent or guardian living, the consent of the nearest relations should be obtained. The wishes of the inmate shall in every case be considered.
2. No such marriage shall be performed without the permission of the District Magistrate.

40) Chief Inspector of protective home –

1. The State Government shall appoint a Chief Inspector for all the Protective Homes in the State.
2. Among other duties assigned to him by the State Government from time to time, the following duties shall appertain to the Chief Inspector;
 - a. he/she shall superintend and control the working of [Prevention of Immoral Traffic] (Orissa) Rules, 1959;
 - b. he/she shall have general control over the staff in all Protective Homes in the State;
 - c. he/she shall inspect all Protective Homes whether established or licensed by the State Government, at least once a year and submit his/her inspection report to the State Government.

41) Board of Visitors –

1. The State Government may appoint for any local area of Visitors to visit once in a month the Protective Homes situated within such local area and to comment and advise on matters affecting the administration of such Protective Homes.
2. The State Government may appoint to a Board of Visitors to work as its members such officials and non-officials as it may deem necessary, the total number being not less than three and not more than seven, one of whom shall be nominated as President. Nonofficial members may include experienced social welfare workers, particularly women social welfare workers, in, the field of suppression of immoral traffic in women and [child or minors].
3. A non-official member shall hold office for two years from the date of his/her appointment and shall be eligible for reappointments.
4. It shall be the duty of the Board –
 - a. to enquire into and see that the arrangements in the Protective Home are proper in all respects;
 - b. to examine the medical, admission and disposal registers and any other connected records;
 - c. to see that no inmate; is illegally detained in Home;
 - d. to bring any special cases to the notice of the Chief Inspector;
 - e. to interview new admissions since the last meeting and to hear any representations that the inmates may desire to make; and
 - f. to carry out any other duties which may be assigned to the Board from time to time by the State Government.
5. The Board shall hold formal meeting once in every three months. The meeting shall be held in the Protective Home or if there are two or more Protective Homes in any area, in each Home by rotation. The Superintendent of the Protective Home in which the meeting is held shall be the Secretary of the Board for the meeting.
6. No business shall be transacted at the meeting of a Board unless at least three members are present.
7. The President shall preside at every meeting of the Board at which he/she is present, if the President is absent from any meeting, the members present shall elect one of the members

to preside over the meeting and the member so elected shall at that time exercise all the powers of the President.

8. The President of the Board shall fix the date and hour of the meeting and a week before the date so fixed, a notice thereof, together with an abstract of any special matters to be considered, shall be furnished to the members by the Secretary of the Board.
9. The minutes of each meeting shall be approved by the President and sent by the Superintendent of the Protective Home in which the meeting is held to the Chief Inspector with his/her remarks.
10. The Superintendent of each Home shall bring to the notice of the Chief Inspector all cases of failure on the part of any member to attend a meeting. The Chief Inspector shall keep a record of such cases of absence and shall, when any non-official member's attendance is markedly irregular, bring the notice of the State Government who may, if they think fit remove such member from office.
11. The Superintendent shall be advised by the resolutions of the Board in the management of the Home; provided that, if in the opinion of the Superintendent, it would be inconsistent with the Act or these rules, or in expedient to give effect to any such resolution, he/she shall submit the resolution for the orders of the Chief Inspector and intimate of the President of the Board the fact of his/her having done so. The order of the Chief Inspector shall be final. It will however be subject to review by the State Government who may confirm, rescinded or modify such order.

42) Visitor's Book –

The Superintendent shall cause a Visitor's Book to be maintained at the Protective Home. A copy of the remarks of a visitor recorded in Visitor's Book shall be submitted by the Superintendent to the Chief Inspector soon after the remarks are recorded by the visitor.

43) Annual returns –

The Superintendent shall submit to the Chief Inspector report on the administration of his/her Protective Home for the previous year, not later than the 15th May of each year in the form prescribed by the State Government. The Chief Inspector shall send annually to the State Government in the first week of July each year a report on the working of these rules together with his remarks, if any.

44) Forms-

In addition to the forms already prescribed and annexed hereto, the State Government may include in the body of the rules, the manner in which the accounts of a Protective Home

shall be maintained and audited and the registers and statements required for the same and prescribe their forms. Similarly forms/of other registers required to be kept under the rules and any other registers may also be included.

45) Punishment for breach of rules –

Any person who commits a breach of Rule 7 or 34 of these rules, shall on conviction by a Magistrate, be punishable with fine which may extend to hundred and fifty rupees.

FORM-I

[See Rule 4]

Form of undertaking

In the Court of the Magistrate I of do hereby declare that I am willing to take charge of aged under the orders of the Court, subject to the following terms and conditions:

- i. I shall do my best for the welfare of the [child or minor] as long as she remains in my charge and shall make proper provision for her maintenance;
- ii. If the [child or minor]'s conduct is unsatisfactory, I shall at once inform the Court;
- iii. In the event of the [child or minor]'s illness, she shall have proper medical attention in the nearest hospital;
- iv. The [child or minor] shall be free to follow the observance of her own religion;
- v. I undertake to produce her before the Court when so required.

From -II

[See Rule 5]

Warrant of commitment to a Protective Home

In the Court of To the Superintendent of the Protective Home at Whereas particulars of whom are furnished below has been ordered by me to be detained in a protective home for a period of from to under [***/Sub-section (2) of Section 19 of Immoral Traffic (Prevention)] Act, 1956 (104 of 1956);

This is to authorise and require you the said Superintendent to receive that said into your custody together with his warrant and there to detain her for the period referred to above in accordance with [Prevention of Immoral Traffic] (Orissa) Rules, 1959, and to return this warrant with an endorsement certifying the manner of its execution.

Particulars: -

- (1) Name of the woman [child or minor]
- (2) Age
- (3) Religion
- (4) Marks of identification
- (5) Offence charged
- (6) Offence for which convicted
- (7) Sentence passed
- (8) Date of sentence
- (9) Period of detention

Given under my hand and seal of the Court this Day of 20 ...

FORM -III

[See Rule 7(l)]

Form of application for licence

(1) Full name of the applicant or association. (if registered, a copy of the registration certificate and particulars of all members of the association shall be given)

(2) Religion

(3) Residence (Town or village) Police-Station District

(Note - In case of association, particulars regarding items 2 and 3 be mentioned in respect of each member)

(4) Name of the Institution

(5) Aims and objects of the Institution

(6) Details about the financial condition of the Institution; funds, property and sources of income

(7) Arrangements made or proposed to be made for boarding and lodging. Also details of the building, whether owned by the Institution or rented.

(8) Arrangements in respect of general health of inmates and facilities for their medical treatment and arrangements proposed to be made for the education and vocational and moral training designed to make them fit for rehabilitation in life as normal citizens.

(9) Full address of the proposed Institutions including the name of the city or town and the locality.

(10) If any such application has been made previously, please state its result together with its date, month and year

(11) If the Institution exists at present, the date of its commencement, annual reports of its working if prepared or its working to date.

(12) Number and particulars of inmates at the time of opening the Institution.

(13) Maximum number of accommodation for children and women

(14) Any other particulars.

I/We here by solemnly affirm that the above and annexed particulars are true according to my/our best of knowledge and belief.

Signature(s) with date and place and name in Block Letters

FORM-IV

[See Rule 7(2)]

Licence

Serial No of Licence	Name And Full Address Of The Protective Home	Name of full description and residence of Licence	Name in full of the Manager of Protective home	Particulars of service to be rendered by the institution	Restriction as to number of inmates	Date of expiry of Licence	Remarks
1	2	3	4	5	6	7	8

The day of 20 (Seal)

Licensing Authority

Conditions

- 1) This licence is granted subject to all the provisions of the Immoral Traffic (Prevention) Act, 1956 (No 104 of 1956) and the Prevention of Immoral Traffic (Orissa) Rules, 1959.
- 2) The licensee shall, affix on a conspicuous part of the Protective Home a sign board on which shall be painted in large letters in English and Hindi the name of the Protective Home.

- 3) The licence shall not be transferable.
- 4) The licence shall remain in force for a period of one year from the date of issue.

FORM-V

[See Rule 7 (3)]

Form of application for renewal of licence

- 1) Full name of the applicant or Association (if registered, a copy of the registration certificate and particulars of all members of the Association should be given)
- 2) Religion
- 3) Residence (Town or village) Police-Station District
- 4) Name of the Institution
- 5) Licence No and year
- 6) Any other particulars

**Signature(s) with date and place and
names in Block Letters**

FORM-V

[See Rule 8(i)]

Inmate's Register

(Name of the Protective Home)

- 1) Name of the inmate
- 2) Father's name or husband's name (in the case of a married woman or [child or minor])
- 3) Age
- 4) Caste or religion, previous occupation, if any
- 5) Previous place of settled residence; if any (town or village), taluk and district

- 6) Height
- 7) Weight on admission
- 8) Marks of identification
- 9) General health
- 10) Ability to do any skilled work
- 11) Calendar No of the case, and sentencing authority
- 12) Period and date of order of committal
- 13) Date of admission
- 14) Date of expiry of period of detention or transfer to another home
- 15) Labour on which employed
- 16) Particulars and value of property delivered with or found on the inmate on admission, or subsequently received on her account with signature or left thumb-print in acknowledgement of correctness on each occasion and on disposal.
- 17) Initials of Superintendent (with dates) in token of having received the property into his/her charge.
- 18) Remarks showing how the inmate has been disposed of after expiry of the period of detention or transfer. Initials of the Superintendent in token of the accuracy of the entires.
- 19) State of health and weight on the date of discharge.

Note - Particulars about health should be entered by the Medical Officer.

FORM - VII

[See Rule 10]

History Ticket

- 1) Name of Protective Home
- 1-A Date of admission
- 2) Date of expiry of the period of detention
- 3) Serial No in the Inmates' Register
- 4) Name
- 5) Age
- 6) Weight
- 7) Weight on admission
- 8) Diet
- 9) Nature of labour on which employed
- 10) State of health on admission
- 11) Remarks (Punishment awarded, etc)
- 12) Results of monthly medical examinations and weightment State of health

Date

Remarks and initials of the Superintendent

Note - Particulars about health should be entered by the Medical Officer.

FORM - VIII

[See Rule 11]

Statement showing the gain or loss in weight of inmates in *(... for the month of

Name of Protective home	Total number of Inmates weighted	Number of inmates lost weight	Number of inmates gained weight	Number of inmates whose weights have not changed	Average gain in weight
1	2	3	4	5	6

Here enter the name of the Protective Home

FORM - IX

[See Rule 19(2)]

Medical Officer's Journal

(Name of the Protective Home)

Month and date Observations or direction of the Remarks of the Superintendent
Medical Officer

FORM - X

[See Rule 38(6)]

Disposal Register

(Name of the Protective Home)

- 1) Serial No
- 2) Name of 1 [child or minor] or woman

- 3) Age
- 4) Caste, religion and language
- 5) Conduct 6) Attainment
- 7) Health 8) Medical treatment
- 9) Date of leaving
- 10) Duration of stay
- 11) Remarks
- 12) Signature of superintendent

1. Substituted vide Orissa Gazette Part - IIIA No 3 date 20/01/1995

FORM - XI

[See Rule 38(7)]

Number of persons discharged during the year

District _____ Taluk _____ Town or village _____

- 1) Name of the Protective Home
- 2) Number of [child or minor]s, women discharged during the year

Station :

Date	Superintendent of Protective Home
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LANDMARK JUDGMENTS

- **Bai Shanta Vrs State of Gujrat AIR 1957 GUJ 211**

The Act does not aim at abolition of prostitutes and prostitution as such and make it per se a criminal offence or punish a woman because she prostitutes herself, but its purpose is to inhibit or abolish commercialized vice. But certain exceptions to above are found in Ss. 7 and 8 S. 7 inhibits women herself from practice of her profession in contravention of its terms and to the extent renders prostitution a penal offence.

It was held that in order to establish such indiscriminate prostitution on the part of any such woman or girl, it was difficult to get evidence of different persons, and one had therefore to adopt trap evidence, that became inevitable and what was essential to be avoided was about the bogus customer not to had actual sexual intercourse with her. It was not at all necessary that the customer, must had been found having sexual intercourse with the woman and it was enough if the circumstances suggest that an inference about her having offered her body for immoral purpose on receipt of any money, so as to be liable under Section 7(1) of the Act. There was no doubt in order to holding that a woman carried on prostitution, plural and indiscriminate sexuality on her part had got to be established but that did not necessarily required that the evidence of more than one customer of the prostitute should be adduced and it would be enough if the facts established entitle the Court to raise an inference to holding that she carried on prostitution as, contemplated under Section 7(1) of the Act.

- **Chitan J. Vaswani and another Vrs State of West Bengal and another AIR 1975 SUPREME COURT 2473**

The Magistrate has the power to order eviction of the occupier of premises when the occupier is convicted under Section 3 or section 7. Public power vested in a public functionary for public benefit shall be used whenever conditions necessary for the exercise are present, so that a comprehensive social purpose of moral clean-up public places is accomplished.

Section 3 punishes persons who keep brothels. Sub-section (3) of Section 3 lays down that notwithstanding any other law any lease under which such premises are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction. It is plain therefore that the consequence of a conviction under Section 3 is the invalidation of the lease of the premises where the brothel is run. The logical consequence must be that the occupier must be thrown out of the prostitutional premises. This is achieved by exercise of the power under S. 18 (2).