

L.A. BILL No. OF 2016.

A BILL

to make special provisions for protection of internal security in the State of Maharashtra, to deal with the challenges of terrorism, insurgency, communalism, caste violence, etc., and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to make special provisions for protection of internal security in the State of Maharashtra, to deal with the challenges of terrorism, insurgency, communalism, caste violence, etc., and for matters connected therewith or incidental thereto, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Maharashtra Protection of Internal Security Act, 2016.

Short title,
extent and
commencement.

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

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

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

Definitions.

(i) "Critical Assets" means facilities, systems, and equipments which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the bulk system

jeopardizing the national security or economy or economic security.

(ii) "critical infrastructure sector" means the sectors of the State, which are so identified under section six;

(iii) "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the State of Maharashtra and/or to our country, that the incapacitation or destruction of such systems and assets would have a debilitating impact on security, economic security, public health or safety or any combination thereof.

(iv) "Internal Security" means a security against threats faced by Maharashtra State within its borders, either caused or provoked, prompted, or proxied by a hostile foreign power, perpetrated even by such groups that use a failed, failing or weak hostile foreign power, causing insurgency, terrorism or any other subversive act that targets innocent citizens, causes animosity between and amongst groups of citizens and communities intended to cause or causing violence; destroy, or attempt to destroy public and/or private establishments(s)

(v) "prescribed" means prescribed by the rules;

(vi) "public establishment" means the building or premises belonging to any Government or local authority and includes such buildings or premises belonging to any Government Corporation or a Government Company or Government undertaking and shops, commercial establishments, hospitals, hostels or any other place where the public have

access;

(vii) "Public safety measures" mean access controls and close circuit television surveillance, etc. at entry and exit points of the establishments and their parking areas by installing :-

- (i) Access controls through physical and technical means;
- (ii) surveillance through closed circuit television surveillance cameras with a provision for storage of video footage for 30 days or more;
- (iii) The technical equipment, adhering to the specification notified by the State Government from time to time.

(viii) "rules" means the rules made under this Act;

(ix) "Sector Specific Agency" means a State Government department or agency responsible for infrastructure protection activities in a designated critical infrastructure sector or key resources category and shall conduct their activities under this Act in accordance with guidance provided by the State.

(x) "State internal security committee" means the Board constituted under section 3;

(xi) "State Police Chief" means the Director General of Police ;

(xii) "Special Security Zone" means the area declared as such under section seven;

(xiii) "Subversive Act" means any act which is intended or is likely –

(a) to endanger –

(i) communal harmony, and/or (ii) the safety or stability of the State or any part thereof;

(b) to prejudice the recruiting of, or the attendance of persons for service in any police force or fire brigade, or any other body of persons entered, enrolled or engaged as public servants or to tamper with the loyalty of such persons;

(c) to impede, delay or restrict –

(i) any work or operation; or (ii) any means of transport or locomotion, necessary for the production, procurement, supply or distribution of any essential commodity, except in furtherance of an industrial dispute as defined in the Industrial Disputes Act, 1947.

Explanation: (i) Acts *bona fide* indicating disapprobation of the policy or measures of the Government with a view to obtaining their alteration by lawful and peaceful means, shall not be deemed to be acts which are intended or are likely to endanger the safety or stability of the State.

(ii) An illegal strike or an illegal lock-out, as defined in section 24 of the Industrial Disputes Act, 1947, shall not be deemed to be an act in furtherance of an industrial dispute for the purposes of sub-clause (d).

(xiv) “target hardening” means and includes all possible measures (including the visible ones) to deter or delay any attack likely to harm, degrade or destroy any building of importance, a facility, an infrastructure facility, an infrastructure, an establishment, a person or the services that such target provides either temporarily or permanently, in order to make such a target unattractive for the terrorists/attackers to attack.

(xv) “transportation security incident” means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular marine area.

(xvi) “vulnerability assessment” shall mean an assessment to include (a) identification and evaluation of critical assets and infrastructures, (b) identification of the threats to those assets and infrastructures and (c) identification of weaknesses in physical security, passenger and cargo security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, contingency response, etc., and other areas as determined by the State Government.

*State Internal
Security
Committee.*

3. (1) There shall be a State Internal Security Committee. The committee shall consist of the Home Minister as Ex-officio Chairman and the following members:-

- (a) Minister of State (Home).
- (b) The Chief Secretary to Government;
- (c) The Additional Chief Secretary to Government, Home Department;
- (d) The Director General of Police of the State;
- (e) The Commissioner of Police, Mumbai; and
- (f) The Commissioner, State Intelligence Department (Member Secretary).

(2) The Board shall perform the following functions, namely:-

- (i) to frame guidelines for dealing with challenges to internal security;
- (ii) to examine and discuss the emerging intelligence inputs pertaining to the challenges to the maintenance of internal security;
- (iii) to ensure that the necessary resources are marshalled without any loss of time and are made available to the concerned authorities;
- (iv) to summon any official of any Government Department or local authority for briefing itself on the issues under its consideration;
- (v) to perform such other functions as may be prescribed.

Explanation.- For the purposes of this section the term "resources" includes the vehicles- whether owned or requisitioned by the Government, disaster management facilities, hospitals, ambulances, medical service professionals, personnel from fire brigade, or any other government machinery.

(3) In the discharge of its functions, the Board shall be competent to issue directions for the implementation of the guidelines issued by it and its evaluation from time to time.

In case of President's rule the committee will be chaired by the Governor or nominee of the Governor.

4. (1) The Director General of Police, who is State Police Chief shall, draw an internal security scheme for the entire State and sub-schemes for the districts and urban areas or parts thereof and submit the same for approval of the State Government.

Preparation of
Internal security
scheme

(2) The sub-schemes prepared under sub-section (1) shall deal with the problems with regard to the public order and the security of the State with specific regard to the area covered under such sub-scheme.

(3) The Scheme shall, as far as possible, cover all major problems, the area is prone to, or which otherwise can be anticipated in the area of the Scheme and shall also have regard to the disturbance likely to arise due to non-implementation of the development programmes in such areas.

(4) The Scheme shall cover the role of police with regard to the security of any establishment or installation relating to infrastructure located in the area

(5) The Scheme shall be updated regularly and provide for comprehensive Standard Operating Procedure (SOP) for dealing with the situations in co-ordination with other agencies.

(6) The Scheme shall be reviewed and revised at least once in a year and shall be tested frequently to evaluate its performance.

5. (1) There shall be an Internal Security unit in the State, headed by the Commissioner of Intelligence to oversee the internal security arrangements in the State in general; and to deal with extremist activities. The Commissioner of Intelligence shall be assisted by required number of officers and shall have necessary units under it.

Internal
Security unit.

(2) The Commissioner of Intelligence under the direction of the Director General of Police shall be responsible for preparing and updating Internal Security Schemes for the State, Commissionerates, Districts and other urban areas notified; to deal with the problems of Public Order and Security of the State, as specific to the area.

(3) The Government shall establish for each notified area; an Emergency Response System, a well-equipped Control Room with adequate information

and communication facilities, dedicated network of patrol vehicles and other necessary wherewithal.

6.(1) The following sectors shall be the Critical Infrastructure Sectors (CIS), for the purposes of this Act, namely:-

Identification of
Critical
Infrastructure
Sectors.

(i) communications;
(ii) Commercial Facilities; (iii) Dams; (iv) Defence Institute Bases; (v) Emergency Services; (vi) Energy; (vii) Financial Services; (viii) Government facilities; (ix) Information Technology; (x) Nuclear Reactors, Materials and Waste; (xi) Transportation Systems; (xii) Water and Waste Water Systems; and (xiii) Chemical;(xiv) other sector as notified by the government from time to time.

(2) The State Government may, having regard to need of ensuring the security of the critical infrastructure sectors identified under sub-section (1), by order designate its office or agency as "Sector Specific Agency (SSA)".

(3) It shall be the responsibility of the Sector Specific Agency notified under sub-section (2) to,-

(i) to strengthen the security and resilience of critical infrastructure, coordinate with the Home Department and other relevant Central Government departments and agencies and collaborate with the critical infrastructure owners and operators, where appropriate, with institutional regulatory agencies and State, local entities, to implement the sector-specific directives;

(ii) serve as a day-to-day interface for the dynamic prioritisation and co-ordination of sector specific activities;

(iii) to carry out incident management response consistent with statutory authority and other appropriate policies/directives or regulations;

(iv) to provide support or facilitate technical assistance and consultations for that sector to identify vulnerabilities and help mitigate incidents, as appropriate and

(v) to provide to the State Government, on an annual basis sector specific critical infrastructure

information.

(3) The State Government shall cause to be prepared, within a period of three months from the date of commencement of this Act, a plan namely the crisis management plan, which shall provide details for management of crisis arising in the Critical Infrastructure Sector. This shall be Prescribed in the Rules.

7. (1) Where in the opinion of the State Government, the security of the State in an area is continuously exposed to insurgency or activities of any organized crime group, the State Government may by notification in the Official Gazette, declare such area as a Special Security Zone (SSZ):

Special Security
Zones.

Provided that, every such notification shall be laid, as soon as may be, after it is issued, before each House of the State Legislature and shall be subject to such modification or annulment which may be made by both the Houses;

Provided further that, such notification shall be in force for a period not exceeding two years in the aggregate.

(2) The State Government shall create an appropriate police structure and a suitable command, control, and response system, for each such SSZ.

(3) The State Government, with a view to ensure coordinated functioning of different wings of the administration, shall by order issue directions for functioning of the administrative machinery in such way as it may specify.

(4) Every administrative and developmental measures, in each SSZ, shall conform to the directions issued under sub-section (2).

(5) The State Police Chief shall, with the concurrence of the State Government, issue orders, laying down SOPs to be followed by the police in an SSZ.

(6) The State Government may, on the recommendation of the State Police Chief, and for reasons to be recorded in writing; ban or regulate the production, sale, storage, possession or entry of any devices or equipment or, poisonous, chemical,

biological or radioactive article or substances, or electronic content of potentially explosive nature or any inflow of funds, in an SSZ; if the use of such devices, equipment, material, article or funds, is reasonably considered a threat to the internal security or public order in the area; in any manner.

8.(1) With a view to facilitate speedy trial for cases under this Act, the State Government shall, in consultation with the High Court constitute the Special Courts.

(2) The Special Courts shall be equipped with adequate infrastructure.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be tried only by the Special Court constituted under this Act.

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1974.

9. (1) It shall be ensured that the Police personnel posted in the Special Units, such as, Anti-Terrorism Squad (ATS), State Intelligence Department (SID), Special Branches in Commissionerates and Districts, Crime Branch units in Police Commissionerates and districts, Protection and Security (P&S), VIP Security, Coastal Security, Maharashtra Intelligence Academy, etc; should get trained immediately on joining such units, in the manner as prescribed by the State Police Chief.

Training and
reorientation of
police
personnel.

(2) The Training and Re-orientation Programme for such personnel shall be devised afresh by the State Police Chief, especially for the topics relating to Security Audit, Target Hardening, Critical Infrastructure Protection Plans, etc. The training and reorientation modules, so designed, shall address all the issues covered by this Act and shall be reviewed every three years.

(3) The training and reorientation modules shall be separately designed for the following categories, namely:-

(a) the cutting edge level Police Officers;

(b) Investigating Officers;

(c) Supervisory Officers.

(4) The State Police Chief and the Training Directorate, working under him, shall be responsible for imparting up-to-date training and reorientation to such officers.

(5) It shall be the responsibility of other stakeholders including other Government departments, Public Sector Undertakings, to extend necessary assistance to the State Police Chief in designing and implementing the training modules.

(6) For each fresh assignment in the specialized branches, the officers shall undergo Reorientation Course.

(7) The State Police Chief shall review the training centre facilities including faculty and other resources

and shall take necessary steps to strengthen them immediately after the promulgation of this Act.

10. (1) Every public establishment and government office shall carry out the security audit of its premises through the Corporation established under the provisions of the Maharashtra State Security Corporation (MSSC)

Act 2010,

(2) Every such public establishment and government office shall pay to the MSSC the charges for such audit.

(3) The detailed SOPs for carrying out such security audit shall be framed by the MSSC, in consultation with the concerned, The SOPs shall be revised periodically.

(4) The SISC shall review, from time to time, the categories of identified targets, for the purpose of security audit.

Provisions as to security audit

11.(1) Every owner or other person in charge of the premises of the public establishment, shall, at all times, provide and maintain public safety measures, as may be specified by order by the State Police Chief from time to time.

(2) Every owner or other person in charge of the premises of the public establishment, shall, store or cause to be stored, the video footage of public activities, properly for a period of 30 days, and provide the same as and when required by an Officer in-charge of the Police station, having jurisdiction over the area or any other authority as may be notified by the Government. Directions given in this regard shall be mandatorily followed by the Public Establishment.

Obligation to provide public safety measures

12. (1)) Every owner or other person in charge of the premises of the public establishment shall file periodical returns in such manner and in such form as may be prescribed, certifying that the public safety

Periodical returns.

measures are provided, properly maintained and the relevant equipments are in working condition, once in every six months, to the Officer-in-charge of the Police station, having jurisdiction over the area:

Provided that, every such person shall, within a period of six months from the date of commencement of this Act shall submit the returns to the concerned officer-in-charge of the police station.

13. (1) The State Government shall , with a view to ensure the costal security of the State, cause to conduct an assessment of vessel types and facilities on or adjacent to the waters, subject to the territorial waters as applicable to Maharashtra; identify those Vessel types and Facilities that pose a high risk of being involved in a transportation security incident. Costal Security.

(2) (a) Based on the information gathered under subsection (1) the State Government shall, within a period of six months from the date of commencement of this Act, cause to conduct a detailed vulnerability assessment of the Facilities and Vessels that are likely to be involved in a transportation security incident.

(b) The vulnerability assessment for the purposes of clause (a) shall include the following: (i) identification and evaluation of critical assets and infrastructure; (ii) identification of the threats to those assets and infrastructures; (iii) identification of weaknesses in physical security, cargo security, structural integrity, protection systems, procedural policies, communication systems, transportation infrastructure, utilities, contingency response and other areas as determined by the State Government.

(3) (a) formulate security incident Response Plans for vessels and facilities that are likely to be involved in any transportation security incident.

(b) make those plans available to the SISC.

14. (1) No person shall do any subversive act with intent to injuriously affect whether by impairing the efficiency or impeding the working of anything or in any other manner whatsoever, or cause damage to –

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

(b) any public transport including railways, aerial ropeway, metro/mono rail, road and bridges, canal, ports, dockyards, lighthouses, aerodromes, air-field, air-strip or any installation thereon or any public telecommunication;

(c) any building or other property used in connection with the production, distribution or supply of any essential commodity; any water storage dam; water work; water supply scheme; water supply pipeline, electricity sub-station; electricity generation plant or distribution network or any part thereof, sewage works, mine or factory;

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

(2) The provisions of Sub-Section (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty imposed on him by any law or an order of any competent authority to do, as they apply to the doing of any act by a person.

(3) If any person contravenes any of the provisions of

the foregoing sub-sections, he shall, on conviction, be punished with imprisonment for a term which may extend to life, or with fine, or with both.

(4) Whoever receives or retains any property, knowing or having reason to believe the same to be a property in respect of which an offence under this Act has been committed, shall, on conviction, be punished with imprisonment for a term which may extend to five years, and shall also be liable to a fine.

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

(6) Any Police Officer may use such force as may be necessary, in order to stop the commission of any offence under this Act, within his view.

15. (1) Every person shall comply with the directions issued under sections 11 & 12.

(2) Contravention of the provisions of sub-section (1) shall be an offence and every such person shall on conviction be punished with fine not exceeding Rupees five lakh.

Punishment for
contravention of
section 8.

16. The State Police Chief or his subordinate officer not below the rank of Commissioner of Police in the area of Commissionerates and the Superintendent of Police in other areas, may, if he has a reasonable suspicion about occurrence of any offence under this Act, may by order for the purpose of regulating the public transport direct any person having charge of a public transport vehicle, to move such vehicle in such direction or prevent such vehicle from moving in any direction as he may determine.

Regulation of
public transport.

Explanation.- For the purposes of this Act the term "public transport vehicle" shall also include railways, metro/mono rail, aerial ropeways, ship, vessels and airplane.

17. If any person or a legal entity, to whom any provision of this Act, or Rules made there-under relates to, or to whom any order made in pursuance of this Act, is addressed or relates, or who is in occupation, possession or control of any land, building, vehicle, vessel, aircraft or other thing to which such a provision relates, or in respect of which such order is made-

(a) fails, without lawful authority or excuse, to comply or to secure compliance, with such provision or rule or order;

(b) evades, or attempts to evade by any means, such provisions or rules or orders;

- shall be deemed to have contravened such provision or order; and the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

18. Whoever — (a) abets any member of the police force not to do his duties or to commit violation of discipline; or

(b) unlawfully undertakes any function or power of police; or

(c) personates as a police officer other than innocently, for the purposes of entertainment; or

(d) deliberately makes a false statement to a police officer with intent to mislead the police in material particulars in a police investigation or due

Non-compliance with the provisions of this Act , Rules, or Orders made thereunder.

Penalty for interfering in the functions of the Police.

performance of police duty; or

(e) threatens, obstructs or assaults a police officer with the manifest intention of preventing such officer from discharging any of his duties;

(f) deliberately obstructs, prevents or otherwise attempts to stop police from making audio or video or electronic record of any activity performed by the police during discharge of their duties.

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

19. (1) Any person who violates any of the provisions of this Act or commits any act of commission or omission in violation of the provisions of this Act or any rules or any order made there-under, shall, on conviction, if no other punishment is prescribed for the same offence under this Act, be punishable with imprisonment for a term not exceeding three years or with fine which may extend to fifty thousand rupees or with both;

(2) Where the offence is committed by more than one person, each of them shall also be punished severally.

20. Any offence punishable under this Act shall be cognizable, non-bailable, non-compoundable and triable by a Court of Session.

Punishment for offences for which there is no separate provision.

Offences to be cognizable, non-bailable, non-compoundable

21. (1) The State Government shall, for the purpose of securing internal security in the State, by appropriation made in that behalf, shall provide separate budget for this activity and make available sufficient funds.

Funds.

(2) The funds under sub-section (1) shall be placed at the disposal of the State Police Chief and shall be expended in the prescribed manner.

22. (1) No suit, prosecution or other legal proceedings shall lie against any person, for anything, which is, in good faith, done or intended to be done, in pursuance of this Act, or any rules made there under, or any orders issued under any such rule.

Protection of
action taken in
good faith.

(2) Save or otherwise expressly provided under this Act, no suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused by anything, in good faith, done or intended to be done, in pursuance of this Act or any rule made thereunder, or any order issued under any such rules.

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

Rules.

(2) Every rule made under this Act shall be laid, before each House of the State Legislature, for a total period of thirty days which may be comprised in one

session or in two or more successive sessions and if the expiry of the session or the sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision have effect in the modified form or be of no effect as the case may be, so, however, nothing in this section shall affect the validity of anything done or omitted to be done under that rule.

24.(i) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that, no such order shall be made under this sub-section after the expiry of a period of two years from the date of commencement of this Act.

(ii) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each house of the State Legislature.
