

Act No. 15, 1905.

An Act to provide for the detention and control
of habitual criminals. [20th September, 1905.]

HABITUAL
CRIMINALS.
—

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Preliminary.

1. This Act may be cited as the "Habitual Criminals Act, 1905." Short title.
 2. "Indictment" includes any information presented or filed Definition.
- as provided by law for the prosecution of offences.
"Regulations" means regulations made under this Act.

Habitual

*Habitual Criminals.**Habitual criminals.*

Judge may declare convicted person an habitual criminal.

3. When any person is convicted on indictment of an offence of one of the classes of offences mentioned in the Schedule, the following provisions of this section shall take effect—

- (a) where such person is so convicted of an offence included in classes II, III, or IV of the offences mentioned in the Schedule, and has been previously so convicted on at least two occasions of an offence of the same class, the judge before whom such person is so convicted, may, in his discretion, declare as part of the sentence of such person that he is an habitual criminal.
- (b) where such person is so convicted of an offence included in any other such class, and has been previously so convicted on at least three occasions of an offence within the same class, such judge may, in his discretion, declare as aforesaid that such person is an habitual criminal.

This section shall apply whether such previous convictions took place within or without New South Wales, and either before or after the commencement of this Act.

Proof of previous conviction.

4. For the purposes of this Act, a previous conviction against any person may be proved by producing a record or extract of such conviction, and by giving proof of the identity of such person with the person appearing in the record or extract of conviction to have been convicted.

A record or extract of a conviction shall consist of—

- (a) an extract from the indictment or the counts of the indictment on which the said person was convicted;
- (b) a statement of the verdict;
- (c) a statement of the sentence;

certified under the hand of the clerk of the court or other officer purporting to have the custody of the records of the court by which such conviction was made.

Such record or extract shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same.

The mode of proving a previous conviction authorised by this section shall be in addition to and not in exclusion of any other authorised mode of proving such conviction.

Detention of habitual criminals.

Habitual criminal to be detained during pleasure.

5. Every habitual criminal shall, at the expiration of his sentence, be detained during His Majesty's pleasure, and subject to the regulations, in some place of confinement set apart by the Governor, by proclamation in the Gazette, for that purpose.

6.

Habitual Criminals.

6. Every person confined as an habitual criminal shall, subject to the regulations, be required to work at some trade or avocation, and shall be offered facilities for selling or otherwise disposing of the products of his labour.

Habitual criminal to work at some trade.

The manner of dealing with the proceeds arising from the sale or disposal of such products shall be as prescribed :

Provided that the habitual criminal shall receive not less than one half of such net proceeds.

7. If the Governor determines that an habitual criminal is sufficiently reformed, or for other good cause, he may, by his warrant, direct his release.

Governor may direct his release.

Every offender so released while he remains within New South Wales shall, once at least in every three months during the period of two years next after such release, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Inspector-General of Police may appoint.

Such report may be made either by the offender personally, or by letter signed by him, and posted to the principal officer of police at that place.

8. If during the period specified in the last preceding section an offender so discharged—

Conditions under which offender may be arrested.

- (1) is proved to any court of petty sessions to have failed without reasonable excuse to report his address and occupation to the person at the times and in the manner prescribed by the last preceding section ; or
- (2) is charged by an officer of police with getting his livelihood by dishonest means, and, being brought before any court of petty sessions, it appears to such court that there are reasonable grounds for believing that he is getting his livelihood by dishonest means ; or
- (3) on being charged with an offence punishable on indictment, or summary conviction, and on being required by the justice or justices before whom he is charged to give his name and address, refuses to do so, or gives a false name, or a false address ; or
- (4) is convicted of any offence against the Vagrancy Act, 1902, or of any indictable offence, or of any offence punishable on summary conviction, for which imprisonment for a period exceeding three months may be imposed,

then, and in any of such cases, the judge, justice, or justices before whom such proof is given, or before whom the offender is so charged, or convicted, may direct him in addition to any fine or on the completion of any term of imprisonment then imposed upon him to be recommitted to the place of confinement, and he shall be so recommitted accordingly, and the judge, justice, or justices may grant any necessary warrant for his recommitment.

9.

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Otherwise ceases to be an habitual criminal.

9. If during the period so specified none of the events aforesaid happens, the offender shall cease to be an habitual criminal.

Males and females to be kept apart.

10. In the place of confinement no female shall be allowed to enter the place set apart for male habitual criminals, nor shall any male be allowed to enter the place set apart for female habitual criminals, except in accordance with the regulations.

Alcoholic liquor prohibited.

11. No person shall bring into the place of confinement for the use of the confinees any alcoholic liquor, nor shall any confinee be allowed such liquor. Any person contravening the provisions of this section shall be liable to a penalty not exceeding one hundred pounds:

Provided that such liquor may be given to and used by the confinees in cases of illness for medicinal purposes.

Supplemental.

Regulations.

12. The Governor may make regulations—
prescribing the mode of sale and disposal of the products of the labour of the habitual criminals;
prescribing the disposal of the net proceeds of such sale;
empowering a visiting magistrate to inflict fines not exceeding ten shillings on confinees for breaches of discipline;
and all other such regulations as may be necessary for the good order, discipline, and health of the confinees and for the control and management of the place of confinement.

All such regulations shall be laid before both Houses of Parliament within one month after the making thereof if Parliament be then sitting, and if not, then within one month after the commencement of the next ensuing session, and shall be published in the Gazette. On such publication the regulations shall be valid in law.

Place of confinement to be a prison within meaning of Prisons Act.

13. Any place of confinement under this Act shall be a "prison" within the meaning of the Prisons Act, 1899.

SCHEDULE.

Classification for the purposes of this Act of sections of the Crimes Act, 1900.

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| Class | (i) | Sections 33 to 37 inclusive—Wounding. |
| " | (ii) | Sections 38 to 41 inclusive—Poisoning. |
| " | (iii) | Sections 62 to 81 inclusive—Sexual offences. |
| " | (iv) | Sections 83 to 84 inclusive—Abortion. |
| " | (v) | Sections 94 to 98 inclusive—Robbery. |
| | | Sections 99 to 105 inclusive—Extortion. |
| | | Sections 106 to 114 inclusive—Burglary, &c. |
| | | Sections 117 to 125, and 148 to 149 inclusive—Larceny. |
| | | Sections 155 to 178 inclusive—Embezzlement. |
| | | Sections 179 to 193 inclusive—False pretences. |
| " | (vi) | Sections 196 to 202 inclusive—Arson. |
| " | (vii) | Under any of the sections in Part V of the Crimes Act, 1900—Forgery. |
| " | (viii) | Under any of the sections in Part VI of the Crimes Act, 1900—Coinage. |