



Prevention of Crime Act 1908

1908 CHAPTER 59

PART II

DETENTION OF HABITUAL CRIMINALS

10 Power of court to pass sentence of preventive detention in addition to penal servitude

- (1) Where a person is convicted on indictment of a crime, committed after the passing of this Act, and subsequently the offender admits that he is or is found by the jury to be a habitual criminal, and the court passes a sentence of penal servitude, the court, if of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that the offender should be kept in detention for a lengthened period of years, may pass a further sentence ordering that on the determination of the sentence of penal servitude he be detained for such period not exceeding ten nor less than five years, as the court may determine, and such detention is herein-after referred to as preventive detention, and a person on whom such a sentence is passed shall, whilst undergoing both the sentence of penal servitude and the sentence of preventive detention, be deemed for the purposes of the Forfeiture Act, 1870, and for all other purposes, to be a person convicted of felony.
- (2) A person shall not be found to be a habitual criminal unless the jury finds on evidence —
 - (a) that since attaining the age of sixteen years he has at least three times previously to the conviction of the crime charged in the said indictment been convicted of a crime, whether any such previous conviction was before or after the passing of this Act, and that he is leading persistently a dishonest or criminal life ; or
 - (b) that he has on such a previous conviction been found to be a habitual criminal and sentenced to preventive detention.
- (3) In any indictment under this section it shall be sufficient, after charging the crime, to state that the offender is a habitual criminal.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) In the proceedings on the indictment the offender shall in the first instance be arraigned on so much only of the indictment as charges the crime, and if on arraignment he pleads guilty or is found guilty by the jury, the jury shall, unless he pleads guilty to being a habitual criminal, be charged to inquire whether he is a habitual criminal, and in that case it shall not be necessary to swear the jury again:
- Provided that a charge of being a habitual criminal shall not be inserted in an indictment—
- (a) without the consent of the Director of Public Prosecutions ; and
 - (b) unless not less than seven days' notice has been given to the proper officer of the court by which the offender is to be tried, and to the offender, that it is intended to insert such a charge ; and the notice to the offender shall specify the previous convictions and the other grounds upon which it is intended to found the charge.
- (5) Without prejudice to any right of the accused to tender evidence as to his character and repute, evidence of character and repute may, if the court thinks fit, be admitted as evidence on the question whether the accused is or is not leading persistently a dishonest or criminal life.
- (6) For the purposes of this section the expression " crime " has the same meaning as in the Prevention of Crimes Act, 1871, 3rd the definition of " crime " in that Act, set out in the schedule to this Act, shall apply accordingly.