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D. WARRANT OF DETENTION

THE LEPERS ACT, 1898
'ACT NO. III OF 1898
[4th February, 1898]

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows:—

1. Title, extent and commencement.— (1) This Act may be called the Lepers Act, 1898.
*[(2) It extends to the whole of Pakistan.]

(3) It shall not come into force in any part thereof until the *[Provincial Government], as hereinafter provided, has declared it applicable thereto.

(4) The >[Provincial Government] may, by notification' in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration >* * *.

2. Definitions — In this Act, unless there is anything repugnant in the subject or context,—

(1) "leper" means any person suffering from any variety of leprosy * * *;

(2) “pauper leper” means a leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms,

or

(b) who is at large without any ostensible means of subsistence;

¹For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 231; for Report of the Select Committee, see ibid., 1896, Pt. V, p. 7; and for Proceedings in Council, see ibid., 1896, Pt. VI, p. 227; ibid., 1897, Pt. VI, p. 248; and ibid., 1897, Pt. VI, p. 248.

This Act has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable, with certain modifications--see N.W.F.P., (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from the date of publication of these regulations and any subsequent modifications as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has been applied to city and cantonment limits of Karachi from 10th November, 1936, see the Lepers (K. Provisions) Act, 1939 (Sind Act 18 of 1939), s. 2.

It has been amended in its application to the Province of Sind, see Sind Act No. 18 of 1939

This Act has been amended to the extent of Islamabad Capital Territory, see, Ordinance No. XXVII of 19

*Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from 1st April, 1961) and by the Central Laws (Statute Reform) Ordinance, 1962 (21 of 1962), s. 3 and 2nd Sch. (with effect from 1st April, 1963). Sub-section (2) as amended by the Burma Laws Act, 1898 (13 of 1898), A.O., 1949, Sch., and the Federal Law Commission Act, 1951 (26 of 1951).

*Subs. by A.O., 1937, for "L. G."

'For notifications under this sub-section, see different local Rules and Orders.

*The words "and may in like manner amend or cancel any such notification" rep. by the Lepers (Amendment) Act, 1920 (22 of 1920).
The words "in whom the process of ulceration has commenced" rep. *ibid.*, s.3.

(3) "leper asylum" means a leper asylum appointed under section 3;

(4) "Board" means a Board constituted under section 5; and

2[3. Appointment of leper asylums by Provincial Government. The *[Provincial Government] may, by notification? in the official Gazette, appoint any place to be a leper asylum if it is satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may, by a like notification, specify the local areas from which lepers may be sent to such asylum.]

4. Appointment of Inspectors of Lepers and Superintendents of Asylums. Subject to any rules which may be made under section 16, the >[Provincial Government] may appoint any Medical Officer of the Government or other qualified medical man to be an Inspector> of Lepers and any person to be a Superintendent? of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

5. Constitution of Board. The *[Provincial Government] shall constitute for every leper asylum appointed under section 3 a Board® consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

6. Arrest of pauper lepers.—(1) Within any local area which has been specified under section 3 any police-officer "[or any other person specially empowered by the *[Provincial Government] by order in writing in this behalf] may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police-officer '[or other person] shall forthwith take or send the person so arrested to the nearest convenient police station.

7. Person arrested how to be dealt with. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(a) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest ;

(b) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

'Clause (5) omitted by A.O., 1949, Sch.

*Subs. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 4, for the original section.

*Subs. by A.O., 1937, for "L. G.".

'For notifications under this section, see different local Rules and Orders,

*For appointment of such Inspectors and Superintendents, see different local Rules and Orders.

'For notifications constituting such Boards, see different local Rules and Orders.

"Ins. by Act 22 of 1920, s.5.

8. Procedure with regard to pauper lepers —(1) If it appears to any * * * Magistrate of the first class or to any other Magistrate authorised in this behalf by the ?[Provincial Government], upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above- mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate:

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail:

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure? (X of 1898) shall be applicable.

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

9. Power to prohibit lepers from following certain trades and doing certain acts —(1) The ?[Provincial Government] may, by notification* in the official Gazette, order that no leper shall, within any area specified under section 3,—

(a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or

(b) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or

(c) drive, conduct or ride in any public carriage plying for hire other than a railway carriage; or

(d) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees:

'The words "Presidency Magistrate or" omitted by A.O., 1949, Sch.

*Subs. by A.O., 1937, for "L. G.".

3See now the Code of Criminal Procedure, 1898 (5 of 1898).

'For such notifications, see different local Rules and Orders.

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

10. Conviction after previous conviction —(1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under sub-section (1), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a ^{**} Magistrate of the first class.

11. Penalty on person employing lepers in prohibited trade. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees:

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

12. Re-arrest of escaped lepers. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested ⁷[without a warrant by any police-officer or by any other person especially empowered by the [Provincial Government] by order in writing in this behalf,] and upon arrest shall be forthwith taken back to the leper asylum.

13. Inspection by Board. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (a) every leper therein admitted since the last inspection, together with the order for his admission, and (5), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

14. Order of discharge by Board. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

¹The words “Presidency Magistrate or “omitted by A.O., 1949, Sch

²Subs. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 6, for “by any police-officer without a warrant

³Subs. by A.O., 1937, for “L. G”.

15. Appeals. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the [Provincial Government] in this behalf, and the decision of such officer shall be final.

16. Power of the Provincial Government to make rules. The [Provincial Government] may, by notification in the official Gazette, make rules? generally for carrying out the purposes of this Act, and in particular—

(a) for the guidance of all or any of the officers discharging any duty under this Act ; and

(b) for the management of, and the maintenance of discipline in, a leper asylum.

17. Power to local authorities to expend funds and appropriate property to asylums.

Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

(a) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority ;

(b) with the previous sanction of the ![Provincial Government] and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

18. Protection to persons acting bona fide under Act. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith? done or intended to be done under, or in pursuance of, the provisions of this Act.

5[4[19. Lepers from Acceding States. The [Provincial Government] may, by notification® in the "[official Gazette]", direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within *[any Acceding State], may be sent to any leper asylum °[in the Province] specified in such order ; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act.]]

'Subs. by A.O., 1937, for "L. G".

?For such rules, see different local Rules and Orders.

3As to definition of good faith, see s. 3 (20) of the General Clauses Act, 1897 (10 of 1897).

4Omitted by Ord. no. 27 of 1985, s. 5. Only to the extent of ICT.

'Ins. by the Lepers (amendment) Act, 1903 (X of 1903), s. 7, The original s. 19 had been rep. by the Ame

'For a notification under this section, see Gazette of India, 1919, Pt. I, p. 1931, and Gen. R. & O.

TSubs. by A. O., 1937.

¹The original words "the territories of any Native Prince or State in India" were first subs. by A. O., 1937, and then amended by read as above.

"Ins. by A. O., 1937.

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SCHEDULE

A. CERTIFICATE (Section 7)

I, THE undersigned (here enter name and official designation), hereby certify that I on the day of at personally examined (here enter name of person examined), and that the said is not a leper as defined by the Lepers Act, 1898.

Given under my hand this day of 189.

(Signature)
Inspector of Lepers.

B. CERTIFICATE (Section 7)

I, THE undersigned (here enter name and official designation), hereby certify that I on the day of at personally examined (here enter name of leper), and that the said is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds namely,—

(Here state the grounds.)

Given under my hand this day of 189.

(Signature)
Inspector of Lepers.

C. WARRANT OF DETENTION (Section 8)

To
THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS it has been made to appear to me that (name and description) is a pauper leper as defined in Lepers Act, 1898.

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and him/her safely to keep in the said asylum until he/she shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189.

(Signature)

Magistrate.
Seal

D. WARRANT OF DETENTION
(Section 10)

To
THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (name and description) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (name and description) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and him/her safely to keep in the said asylum until he/she shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189.

(Signature)
Magistrate.

Seal.

E. ORDER OF DISCHARGE BY BOARD!
(Section 14)

To,

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (name and description) was committed to your custody under an order dated the day of 189 and there have appeared to us sufficient grounds for the opinion that he/she can be released without hazard or inconvenience to the community:

This is to authorise and require you forthwith to discharge the said (name) from your custody.

Given under our hands this day of 189.

(Signatures)
Members of the Asylum Board.

'A corresponding form may be used by the District Magistrate for order of discharge issued under s. 10 (2)