

LEPERS ACT, 1898

3 of 1898

[4th February, 1898]

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SCHEDULE 1 :- CERTIFICATE

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"The expediency of segregating pauper lepers under suitable safeguards and of forbidding lepers generally, from following certain trades and callings connected with the bodily requirements of human beings was urged by the Leprosy Commission which visited India six years ago, and since then steps have been taken in some provinces to give effect to the recommendation of the Commission. Last year an Act was passed by the Bengal Council to provide for the arrest, examination and segregation in properly appointed asylums and lepers having no ostensible means of subsistence beyond begging for charity: for enabling local bodies to assist in furnishing funds for the maintenance and medical treatment of pauper lepers so secluded; and for restraining lepers from engaging in certain occupations of the kind already referred to. The present Bill has been prepared on the lines of the Bengal Act. but so as to extend to the whole of the India and to apply to any part thereof, and not before the issue of notification by the Local Government, with the previous sanction of the Governor-General in Council, declaring it to be applicable thereto. Where, in Bengal, adequate provision on the subject has already been made, the proposed Act will not be so applied and the local law will be allowed to continue in force". - Gazette of India, 1896. Pt. V, p. 231.

1. Title, extent and commencement :-

This Act may be called the Lepers Act, 1898.

¹[(2) It extends to the whole of India except ²[the territories to which, immediately before the 1st November, 1956, were comprised in Part B States];] but

(3) It shall not come into force in ³[any part of the territories to which this Act extends] until the ⁴[State Government], as hereinafter provided, has declared it applicable thereto.

(4) The ⁴[State Government] may, by notification in the ⁶[Official Gazette], apply this Act or any part thereof to the whole or any portion of the territories ⁷[to which this Act extends] for the time

being under its administration ⁸ [* * *]. :

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1. Substituted for former sub-section (2) by A. L. O., 1950.
2. substituted for "Part B States" by 2 A. L. O., 1956. Immediately before 1st November, 1956, the following were the Part B States in India : Hyderabad, Jammu and Kashmir, Madhya Bharat. Mysore, Pepsu, Rajasthan, Saurashtra and Travancore-Cochin.
3. Substituted for "any Part A State or Part C State" , by 2 A. L. O., 1956.
4. Substituted for "Provincial Government" by A. L. O., 1950.
6. Substituted for "local Official Gazette" by A. O., 1937.
7. Inserted, by 2 A. L. O., 1937.
8. The words "and may in like manner amend or cancel any such notification" were omitted by the Lepers (Amendment) Act, 1920 (22 of 1920), section 2.

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 ¹ [* * *];

(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;

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

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

(5) "District Magistrate" includes a Chief Presidency Magistrate.

1. The words "in whom the process of ulceration has commenced" were omitted by the Lepers.(Amendment) Act, 1920 (22 of 1920).

3. Appointment of leper asylums by State Government :-

The ¹[State Government] may, by notification in the ¹ [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.]

1. Substitute for "Provincial Government" by A.L.O"1950.

4. Appointment of Inspectors of Lepers and Superintendents of Asylums. :-

Subject to any rules which may be made under section 16, the¹ [State 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.

1. Substituted for "Provincial Government" by A.L.O., 1950.

5. Constitution of Board. :-

The State 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 ¹[or any other person specially empowered by the ¹[State 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 ¹ [or other person] shall forthwith take or send the person so arrested to the nearest convenient police station.

1. Inserted by the Lepers (Amendment) Act, 1920 (22 of 1920), section 5.

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.

8. Procedure with regard to pauper lepers :-

(1) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the ¹ [State Government], upon the certificate in Form B set forth in the Sch., 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 maybe 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 S.514 of Code of Criminal Procedure, 1973 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.

"In consonance with several opinions we have modified clause 8 in the direction of greater distinctness and elasticity. The class of Magistrate who should ordinarily deal with these cases has been specified, and the right of every alleged leper to examine the Inspector of Lepers upon his certificate in Form B, and to require that the allegation of leprosy shall, if not admitted, be fully proved, has been made clear. We have, on the analogy of S.4 of the Lunatic Asylums Act, 1858, given power to the Magistrate to make over a pauper leper to friends, on proper conditions, in lieu of

sending him to an asylum; and we have authorised a District or Chief Presidency Magistrate to order the release of any pauper leper from an asylum upon due cause, as for instance, the cessation of his pauper status or the coming forward of friends. These modifications provide a safeguard against the improper or unnecessary confinement of persons in asylums."-S.C.R.

1. Substituted for "Provincial Government" by A. L. O., 1950

8A. Survey of local area :-

(1) The State Government may, for the purpose of ascertaining whether any lepers are residing in any area and whether they are undergoing medical treatment of leprosy, cause a survey of such local area to be made through an Inspector of Lepers.

(2) The survey under sub-section (1) shall be made in such manner and the Inspector of Lepers shall, for discharging his functions, exercise such powers as may be prescribed.

(3). If as a result of survey made under sub-section (1), the Inspector of Lepers is of opinion that any leper is not undergoing medical treatment of leprosy he may arrest him without warrant and send the person so arrested to the nearest police station along with a certificate in Form BB set forth in the Schedule, whereupon the leper shall, without unnecessary delay, be taken before a Judicial Magistrate of the First Class having jurisdiction or before any other Judicial Magistrate authorised in this behalf by the State Government.

8B. Lepers how to be dealt with :-

If upon the certificate in Form BB and after giving to the arrested person an opportunity of being heard it appears to the Magistrate that such person is a leper and he is not undergoing medical treatment of leprosy he shall send such person to a leper asylum together with an order in Form CC set forth in the Schedule where such leper shall be detained for the purpose of medical treatment of leprosy until discharged by the order of the Board or the District Magistrate: Provided that if the leper undertakes in writing to the satisfaction of the Magistrate that he shall undergo medical treatment of leprosy, the Magistrate may, instead of sending him to a leper asylum, discharge him after obtaining a bond with one or more sureties from the leper, and the provisions of S.446 of Code of Criminal Procedure, 1973, shall apply to such a bond.

8C. Re-arrest of lepers not complying Undertaking given under section 8-B :-

Whoever, having been discharged under an order of Magistrate on furnishing a bond under the proviso to section 8-B does not undergo medical treatment may be arrested without a warrant by any Police Officer or by any other person specially empowered by the State Government by an order in writing in this behalf and upon arrest shall, without unnecessary delay, be taken before a Judicial Magistrate of the First Class having jurisdiction or before any other Judicial Magistrate authorised in this behalf by the State Government for the purpose of taking action under section 8-B."- Punjab Act 7 of 1977, section 3 (10-5-1977).

9. Power to prohibit lepers from following certain, trades and doing certain acts :-

(1) The ¹ [State 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: 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.

1. Substituted for "Provincial Government" by A.L.O., 1950.

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 Presidency Magistrate or 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 ¹[without a warrant by any police officer or by any other person especially empowered by the ² [State Government] by order in writing in this behalf,] and upon arrest shall be forthwith taken back to the leper asylum.

1. Substituted for "by any police officer without a warrant" by the Lepers (Amendment) Act, 1920 (22 of 1920), section 6.

2. Substituted for "Provincial Government" by A.L.O., 1950.

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 (b), 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.

14A. Power of State Government to prohibit entry of lepers in notified area :-

If it appears to the State Government that in any local area, large bodies of persons are likely to assemble on account of pilgrimage, fair or other such occurrence and that the presence of lepers amidst such assembly of persons is likely to cause the spread of leprosy, the State Government may, by notification in the Official Gazette, declare such local area as notified area for such period as may be specified in the notification and order that no leper shall, unless he is a permanent resident of the notified area, enter or remain within the limits of the notified area during the period specified in the notification.

14B. Duty of local authority to get up in segregation camp in notified area :-

(1) Notwithstanding any law for the time being in force relating to any local authority, it shall be the duty of every local authority within whose limits the notified area or part thereof is situated, to set up a segregation camp for the reception of lepers.

(2) Every such segregation camp shall be equipped with adequate supply of water and food and necessary sanitary arrangements.

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(3) Such segregation camp shall be in charge of an Inspector of Lepers who shall be appointed by the State Government under section 4 ..

14C. Power to arrest without warrant leper found in

notified area :-

(1) Any police officer or any person specially empowered by the State Government by order in writing in this behalf may arrest without a warrant any person, who appears to him to be a leper and who is found to be within the limits of the notified area in contravention of the order issued under section 14A.

(2) Such police officer or other person shall forthwith take or send the person so arrested to the nearest convenient segregation camp: . Provided that no person so arrested shall be detained in custody or in the segregation camp without the order of the nearest Magistrate for longer period than twenty-four hours from the time of arrest exclusive of the time necessary for the journey from the place of arrest to the Court of such Magistrate.

14D. Inquiry in respect of lepers and their detention in segregation camps :-

(1) As soon as a person arrested under section 14C is brought to the segregation camp, the Inspector of lepers in charge of the Camp shall examine such person and-

(a) if he finds that such person is not a leper, he 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 he shall give to the police officer or the person arresting such person a certificate in Form B set forth in the schedule whereupon the leper ,shall forthwith be taken before a Presidency Magistrate in Greater Bombay or elsewhere a Magistrate of the first class having jurisdiction or before any other Magistrate authorised, in this behalf by the State Government.

(2) If upon the certificate in Form B and after giving to the arrested person an opportunity of being heard, it appears to the Magistrate that such person is a leper, the Magistrate shall record a declaration that such person is a leper, and order such person to be detained in such segregation camp as may be specified in the order so long as the notification issued under section 14A is in force and shall send such leper to such segregation camp together with an order in Form F set forth in the Schedule: Provided that where the person declared to be a leper proves to the satisfaction of the Magistrate that he is a permanent resident of the notified area, the

Magistrate shall order that such person shall be forthwith discharged: Provided further that if the person declared to be aleper shall give an undertaking in writing that he shall forthwith depart from the notified area and shall not enter or remain in the notified area so long as the notification issued under section 14A is in force, then the Magistrate may order that such person be discharged.

14E. Penalty for non-compliance of undertaking :-

If any person released from arrest on an undertaking given by him under section 14D fails to comply with such undertaking, he shall, on conviction, be punished with fine which may extend to fifty rupees.

14F. Re-arrest of leper escaping from segregation camp :-

The provisions of section 12 shall, mutatis mutandis, apply to any leper who escapes from a segregation camp.-Bom. Act 28 of 1955, sec. 3 (16-9-1955); Guj. A.L. (8th Am.)O.,1961; 37of 1956, sec, 119

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 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 ¹ [State Government] in this behalf, and the such officer shall be final.

1. Substituted for "provincial Government" by A. LO. 1950

16. Power of the State Governmenta to make rules :-

The¹ [State 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.

1. Substituted for "Provincial Government" by A.L.O., 1950.

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 ¹ [State Government] and subject to such conditions as that Government may prescribe, appropriate any immovable property vested in, or under the control of, such body, as a site for, or for use as a leper asylum.

1. Substituted for "Provincial Government" by A.L.O., 1950.

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.

19. Lepers from any part of India to which this Act does not extend :-

The ¹[State Government] may, by notification² 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 ³[any part of India to which this Act does not extend], may be sent to any leper asylum ⁴ [in the State] 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.]

1. Substituted for "Provincial Government" by A.L.O., 1950.

2. See Gaz. of Ind., 1919, Pt. I, p. 1931.

3. Substituted for "any Part B State", by 2 A.L.O., 1956.

4. Inserted by A.O., 1937. Maharashtra: After sec. 19, add section 20 as follows:

20. Power of Juvenile Courts etc., in certain cases :-

The powers conferred by this Act shall, in relation to a person or leper who is a child or a youthful offender, be exercised only-

(a) by a Juvenile Court if such Court has been established for any local area in which such person or leper is being proceeded with under this Act, and

(b) if a Juvenile Court has not been established for any such local area, then by a Court empowered under sec. 8 of the Bombay Children Act, 1948 , to exercise the powers of a Juvenile Court.

SCHEDULE 1
CERTIFICATE

(Section 7) 1, 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) 1, 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 the 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) Seal Magistrate. 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) Seal Magistrate. 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 (Signature) Members of the Asylum Board. STATE AMENDMENTS Maharashtra: In the Schedule, after - Form E, insert the following Form, namely - "F- WARRANT OF DETENTION (Section 14D) To, The Inspector of Lepers in charge of the Segregation Camp at..... Whereas it has been made to appear to me that (name and description) is a leper as defined in the Lepers Act, 1898; This is to authorise you, the said Inspector of Lepers; to receive the said..... into your custody together with this order and safety to keep him/her in the said segregation camp till the expiry of the.....day of..... Given under my hand and the seal of the Court this-.....day of..... 19 (Signature) Seal Magistrate."] Bom. Act 28 of 1955, sec. 4

(16-9-1955). Punjab: In the Schedule, (i) after Form B add the Form BB, namely:- "BB- CERTIFICATE (section 8-A) 1, the undersigned (here enter name and official designation), hereby certify that I on the day of at personally examined (here enter name of leper), residing at..... 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, and I am satisfied that the aforesaid leper is not undergoing medical treatment of leprosy. (Here state the grounds) Given under my hand this day of 19 (Signature) Inspector of Lepers." (ii) after Form C, the following Form shall be inserted, namely:- "CC.-WARRANT OF DETENTION (section 8-B) To THE SUPERINTENDENT OF LEPER ASYLUM AT..... WHEREAS it has been made to appear to me that.....(name and description) resident of..... is a leper as defined in the Lepers Act, 1898; - AND WHEREAS I am satisfied that he is not undergoing medical treatment of leprosy. This is to authorise you, the said Superintendent, to receive the said..... into your Custody together with this order safely to keep him/her in the said asylum for the purpose of giving him/her medical treatment of leprosy until he/she shall be discharged by order of the Board or the District Magistrate. Given under my hand and the seal of the Cout this day of 19 . (Signature) (Seal) Judicial Magistrate." -Punjab Act 7 of 1977, sec. 5 (10-5-1977).