

THE VAGRANCY ACT 1968

No. 61 of 1968

Date of Assent: 11th December 1968

Date of Commencement: By Notice

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An Act of Parliament to make provision for the suppression of vagrancy; for the detention of vagrants and for the care and rehabilitation of beggars; and for matters incidental thereto and connected therewith

ENACTED by the Parliament of Kenya, as follows:—

Short title
and
commencement.

1. This Act may be cited as the Vagrancy Act 1968 and shall come into operation on such day as the Minister may by notice in the Gazette appoint.

Interpretation.

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

“administrative officer” means any Provincial Commissioner, District Commissioner or District Officer;

“beggar” means a vagrant who, whether by reason of physical or mental disability, is unable to maintain himself otherwise than by vagrancy, and in respect of whom no person has shown himself to be willing and able to maintain him;

“court” means any court subordinate to the High Court;

“Minister” means the Minister for the time being responsible for the matter of vagrancy;

“place of detention” means any prison within the meaning of the Prisons Act or any detention camp within the meaning of the Detention Camps Act;

Cap. 90.

Cap. 91.

“police officer” includes an administration police officer;

“rehabilitation centre” means any premises declared by the Minister under section 9 of this Act to be a rehabilitation centre;

“vagrant” means—

(a) any person having neither lawful employment nor lawful means of subsistence such as to provide him regularly with the necessities for his maintenance; and, for the purposes of this paragraph, prostitution shall not be deemed to be lawful employment, and earnings from prostitution shall not be deemed to be lawful means of subsistence; or

(b) any person having no fixed abode and not giving a satisfactory account of himself; and, for the purposes of this paragraph, any person lodging in or about any verandah, pavement, sidewalk, passage, out-house, shed, warehouse, store, shop or unoccupied

building, or in the open air or in or about any cart or vehicle, shall be deemed to be a person having no fixed abode; or

- (c) any person wandering abroad, or placing himself in any public place, to beg or gather alms; or
- (d) any person offering, pretending or professing to tell fortunes, or using any subtle craft, means or device by palmistry or otherwise to deceive or impose upon any person.

POWERS TO DEAL WITH VAGRANCY

3. A police officer may without warrant arrest any person who is apparently a vagrant or any person whom he suspects upon reasonable grounds of having committed an offence under this Act.

Powers of arrest.

4. (1) The court before whom any person is brought as being apparently a vagrant shall inquire into the circumstances of that person, and where the court finds that person to be a vagrant the court shall have power—

Powers of the court.

- (a) if the court finds that person to be a beggar and a citizen of Kenya, to make an order for that person to be taken to a rehabilitation centre and requiring that person to reside in that centre for a period not exceeding two years:

Provided that no such order shall be made unless the court is satisfied that the beggar will be admitted to a centre without undue delay;

- (b) if the court finds that person not to be a citizen of Kenya, or to be a citizen of Kenya who is a vagrant but not a beggar and who has no home, to make an order for that person to be detained in a place of detention;
- (c) if the court finds that person to be a citizen of Kenya who is a vagrant but not a beggar and who has a home, to make an order for that person to be taken to the district in which his home is situated and restricting the movement of that person to that district during a period of three years.

(2) For the purposes of enabling the court to inquire into the circumstances of any person brought before the court as being apparently a vagrant or into any matter for the purposes of subsection (1) of this section, the provisions of section 205

No. 61

Cap. 75.

of the Criminal Procedure Code (which relates to adjournment before or during the hearing of any case) shall apply in respect of that person as if he were an accused person.

(3) Where a court makes an order under subsection (1) (a) of this section in respect of a beggar that court may also make an order for that person to be detained in custody until such time as he is taken to a centre.

(4) Where a court makes an order under subsection (1) (c) of this section in respect of a vagrant that court may also make an order for the detention of the vagrant in a place of detention until such time as he is taken to the district in which his home is situated.

(5) Where a court finds that a person is a vagrant and considers that inquiry should be made as to whether that person has committed an offence under section 8 of this Act, that court may order that person to be detained in a place of detention pending the result of that inquiry.

Appeals.

5. (1) Any person in respect of whom an order has been made under section 4 (1) of this Act may appeal to the High Court.

Cap. 75.

(2) For the purposes of any appeal under this section the provisions of section 347 to 367 (both inclusive) of Part XI of the Criminal Procedure Code shall apply in all respects as if the order appealed from were a conviction and sentence to which those provisions apply:

Provided that the execution of an order under section 4 (1) (c) of this Act shall not be suspended pending the hearing of the appeal.

(3) A decision of the High Court upon any appeal under this section shall be final.

Minister may
revoke orders.

6. The Minister may at any time by order revoke any order made by a court under section 4 of this Act.

PROVISIONS RELATING TO VAGRANTS RESTRICTED TO HOME DISTRICT

Permits.

7. (1) Any administrative officer may issue a permit in writing under this section to any person in respect of whom an order has been made under section 4 (1) (c) of this Act,

permitting that person to leave the district to which his movements have been restricted by that order.

(2) A permit issued under this section may be issued subject to any conditions as to the purposes for which or the period for which a person may leave the district to which he is restricted or as to the places outside that district where the person is permitted to go.

8. Any person who, having been taken to a district in pursuance of an order made under section 4 (1) (c) of this Act—

Contraventions
of orders and
permits.

(a) is found outside that district in contravention of that order; and

(i) is not in possession of a permit issued under section 7 of this Act; or

(ii) is found to be acting in breach of any conditions of a permit so issued; or

(b) while outside that district fails without reasonable cause to produce such a permit to a police officer or administrative officer upon demand,

shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding six months for a first offence or two years for a second or subsequent offence.

PROVISIONS RELATING TO REHABILITATION CENTRES AND BEGGARS

9. (1) The Minister may, with the consent of the Minister for the time being responsible for local government, by notice in the Gazette, declare any premises to be a rehabilitation centre.

Rehabilitation
centres.

(2) Any declaration made under subsection (1) of this section may be revoked at any time by notice in the Gazette.

(3) The power conferred upon every municipal council and county council by regulation 155 (g) of the Local Government Regulations 1963 to establish, maintain and control rehabilitation centres shall be exercised subject to the provisions of this section.

L.N. 256/1963.

(4) A rehabilitation centre shall not be established except with the consent of the Minister and of the Minister for the time being responsible for local government.

(5) The appointment of the warden and of any medical or supervisory staff of a centre shall be made with the consent of the Minister.

(6) The local authority controlling a rehabilitation centre shall keep such records (including medical records) relating to the inmates of that centre, and shall furnish such information to the Minister relating to the centre and its inmates, as the Minister may from time to time require.

Provisions relating to beggars residing in centres.

10. (1) Any beggar residing in a centre may be required by the warden to perform any work which the warden considers suitable for that beggar and which he considers—

(a) will be likely to fit that beggar for any employment or occupation outside the centre; or

(b) will contribute to the maintenance of that beggar in the centre.

(2) A beggar shall be discharged from a centre if the warden is satisfied that upon leaving the centre he will either—

(a) engage in some suitable employment or occupation outside the centre by which he will be able to maintain himself; or

(b) be taken into the care of a person able and willing to provide care and maintenance for that inmate.

(3) A beggar who absents himself from a centre without lawful excuse may be arrested by a police officer and, if he can be returned to that centre within twenty-four hours of his arrest, shall be so returned, but otherwise shall be taken into custody and brought before a court.

Regulations regarding rehabilitation centres.

11. (1) The Minister may make regulations for the regulation, staffing and management of rehabilitation centres, and such regulations may in particular—

(a) regulate the admission to and discharge from centres of beggars and the transfer of beggars from one centre to another;

(b) provide for the search of the person and clothing, and for the recording of particulars of the identity, of any beggar;

(c) make provision as to the facilities and services to be provided in such centres and for the care, control, maintenance and rehabilitation of beggars;

- (d) require beggars to submit to medical examination, and provide for the taking of measures for the protection of the health of beggars in centres;
- (e) make or provide for the making of rules of conduct for beggars in centres (including rules imposing penalties for breaches of such rules of conduct);
- (f) confer upon any public officer authorized thereunder such powers of inspection as may be prescribed.

(2) The Minister shall make regulations providing for centres to be visited by boards of visitors appointed thereunder and prescribing the functions of such boards, and such regulations shall—

- (a) make provision for a board, or at least two members thereof, to visit every centre at intervals not less frequently than once in every four months;
- (b) empower the boards, or any member thereof, when visiting a centre, to investigate any complaint by a beggar, to interview any beggar in private and to require a private medical examination of any beggar.

12. Any person who, being a member of the staff of, or otherwise in charge of, a centre, ill-treats or wilfully neglects a beggar for the time being residing in that centre shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

Ill-treatment
of beggars
in centres.

13. (1) Any person who refuses to allow the inspection of any centre or without reasonable cause refuses to allow the visiting, interviewing or examination of any beggar by a person authorized in that behalf by or under this Act or to produce for the inspection of any person so authorized any document or record the production of which is duly required by him, or otherwise obstructs any such person in the exercise of his functions, shall be guilty of an offence.

Obstruction.

(2) Without prejudice to the generality of the foregoing subsection, any person who insists on being present when requested to withdraw by a person authorized as aforesaid to interview or examine a person in private, shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding two months or to both such fine and such imprisonment.

14. (1) Any person who induces or knowingly assists any beggar—

(a) ordered to reside in a centre, to absent himself from that centre without leave; or

(b) being in lawful custody by virtue of section 17 of this Act, to escape from such custody,

shall be guilty of an offence.

(2) Any person who knowingly harbours a beggar who is absent from a centre without leave or is otherwise at large and liable to be taken under this Act, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned to the centre or other place where he ought to be, shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding six months, or to both such fine and such imprisonment.

PROVISIONS RELATING TO PLACES OF DETENTION AND DEPORTATION OF VAGRANTS

15. (1) The officer in charge of a place of detention shall use his best endeavours to obtain suitable employment outside that place for those vagrants detained therein who are citizens of Kenya, and, in the event of such employment being found for and accepted by such a vagrant, shall discharge him from detention to enable him to take up that employment.

(2) If within three months from the date of committal to a place of detention of any vagrant who is a citizen of Kenya no suitable employment has been obtained for and accepted by him he shall be discharged from that place of detention.

(3) Whenever any vagrant who is not a citizen of Kenya is ordered to be detained in a place of detention, the officer in charge of that place shall forthwith report his detention to the Minister for the time being responsible for immigration, and, if within three months of the date of that order that

Assisting
beggars to
absent
themselves
without leave.

Places of
detention and
discharge of
vagrants after
detention.

Minister has not made an order for the removal of that vagrant from Kenya under any law relating to immigration, that vagrant shall be discharged forthwith from detention.

16. (1) Subject to subsection (2) of this section, the provisions of the Prisons Act and the Detention Camps Act and of any regulations made under those Acts (in this section referred to as the said Acts) shall apply in relation to any person ordered to be detained as a vagrant under this Act as if he were a prisoner (and in the case of the Prisons Act as if he were a criminal prisoner) undergoing detention within the meaning of the said Acts.

Application of section 124 of Cap. 63 and of Caps. 90 and 91 to vagrants under detention.

(2) The Minister may make regulations for facilitating the implementation of this Act, and the said Acts in relation to the detention of vagrants, including in particular regulations—

- (a) prescribing which provisions of the said Acts shall and which shall not apply to vagrants or any class or description of vagrants detained under this Act;
- (b) modifying the provisions of the said Acts in such manner as he thinks proper in their application to vagrants or to any class or description of vagrants.

(3) For the purposes of section 124 of the Penal Code (which relates to aiding escape) any person ordered to be detained as a vagrant under this Act shall be deemed to be a prisoner, and any place where that person is so detained shall be deemed to be a prison.

Cap. 63.

MISCELLANEOUS

17. For the purposes of sections 122 and 123 of the Penal Code (which relate to rescue and escape) and of section 40 of the Criminal Procedure Code (which relates to recapture), any vagrant required or authorized by or by virtue of this Act to be detained in or to reside in, or to be conveyed to or from, a place of detention or rehabilitation centre, or to be taken or held in custody, shall, while being so detained or resident, or conveyed, taken or held, be deemed to be in lawful custody.

Vagrants to be deemed to be in lawful custody. Cap. 63. Cap. 75.

18. The proviso to section 21 (1) of the Police Act (which relates to the destruction of fingerprints and other records) shall not apply in relation to a person who has been found by the court under this Act to be a vagrant.

Fingerprints. etc. Cap. 84.

General provisions relating to orders, warrants, etc. of the court.

19. (1) A court may issue such warrants as may be necessary for the purpose of carrying into effect any order made under this Act, and any warrant so issued shall be sufficient authority in law to all persons to whom the same is directed to carry that order into effect.

(2) Every warrant issued under this section in respect of an order shall be issued under the hand of the person presiding over the court by whom that order is made, or by his successor in office.

(3) Where any order under this section is expressed to have effect for any period of time that period shall be deemed to commence on, and to include the whole of, the day on which it was made.

(4) The Minister may make regulations prescribing, subject to the approval of the Chief Justice, the forms of warrant, complaint, order, permit or other like forms to be used under this Act.

General provisions relating to orders of the Minister.

20. (1) Every order made by the Minister under this Act shall be signed by the Minister or by a person authorized in writing by the Minister in that behalf, and any document purporting to be such an order or such an authorization shall, unless the contrary is proved, be deemed to be such an order or authorization.

(2) Any such order or authorization made by the Minister may be revoked or varied by him at any time in the same manner as that order or authorization was made.

Regulations.

21. (1) Without prejudice to any specific power conferred by any provision of this Act, regulations may be made for facilitating the implementation of this Act.

(2) Any regulations made under this Act may make different provisions with respect to different cases or classes of case and for different purposes of this Act, may prescribe the time and manner of taking of any action required or permitted to be taken under this Act (including the procedure to be followed and the forms to be used), and may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.

22. (1) The Vagrancy Act is hereby repealed.

(2) The Penal Code is amended—

(a) in section 182 thereof—

(i) by substituting for paragraph (b) the following paragraph—

(b) every person causing, procuring or encouraging any person to beg or gather alms;

(ii) by deleting paragraph (g) thereof;

(b) in section 183 (b) thereof, by deleting the words “going about as a gatherer or collector of alms, or”.

(3) Regulation 155 of the Local Government Regulations 1963 is amended by inserting at the end thereof the following paragraph—

Rehabilita-
tion
centres for
beggars.

(g) subject to the Vagrancy Act 1968, to establish, maintain and control rehabilitation centres for the care, maintenance and rehabilitation of beggars.

Repeal of
Cap. 58 and
amendment of
Cap. 63 and
L.N. 256/1963.

L.N. 256/1963.

61 of 1968.