

The Tamil Nadu Prevention Of Begging Act, 1945

TAMILNADU

India

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Act 13 of 1945

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The Tamil Nadu Prevention Of Begging Act, 1945. Act No. 13 of 1945. An Act to provide for the prevention of begging for the detention and employment of beggars and their dependents in work-houses or special homes, and for the custody, trial and punishment of beggar offenders in the State of Tamil Nadu. WHEREAS it is expedient to provide for the prevention of begging for the detention and employment of beggars and their dependents in work-houses or special homes, and for the custody, trial and punishment of beggar offenders in the State of Tamil Nadu. It is hereby enacted as follows:—

1. Short title, extent and commencement .—

(1) This Act may be called The Tamil Nadu Prevention Of Begging Act, 1945. (2) It extends to the whole of the State of Tamil Nadu. (3) This Section shall come into force at once; and the State Government may, from time to time by notification in the Fort St. George Gazette, direct that the remaining provisions of this Act shall come into force in such local area and on such date, as may be specified in the notification.

2. Definitions .—

In this Act, unless there is anything repugnant in the subject or context — (1) “begging” means— (i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, performing tricks or selling articles or otherwise ; (ii) entering on any private premises for the purpose of soliciting or receiving alms (iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal; (iv) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms; but does not include— (a) earning a livelihood by displaying skills and talents by street artists and performers in the oral tradition, bards, jugglers and street magicians; and (b) soliciting or receiving money or food or gifts for such purposes as may be prescribed. (1A) “Juvenile Court” means

a Court established under sub-section (1) of section 36 of the Madras Children Act, 1920(Madras Act IV of 1920), and if no such Court is established in any area, a Sub-divisional Magistrate or a Magistrate of the first or second class specially authorized by the State Government to exercise the powers of such Court.(1B)“Magistrate” means a salaried Presidency Magistrate or a sub-divisional Magistrate or a Magistrate of the first or second class specially authorised by the State Government in this behalf;(1C)“public place” includes any public street, road or thoroughfare or any place of public worship or any place of public resort or any bus-stand or any railway carriage or premises of a railway station.(2)“special home” means a place notified by the State Government in the Fort St. George Gazette as suitable for the reception of persons not physically capable of ordinary manual labour, who are committed to a special home under any of the provisions of this Act;(3)"workhouse" means a place notified by the State Government in the Fort St. George Gazette as suitable for the reception of persons physically capable of ordinary manual labour, who are committed to a workhouse under any of the provisions of this Act.

3. Penalty for begging.—

(1)Whoever is found begging shall be punishable —(a)on a first conviction, with fine which may extend to fifty rupees or with imprisonment which may extend to one month;(b)on a second or subsequent conviction, with imprisonment for a term which may extend to six months.(2)Any Police officer may arrest without a warrant any person who is found begging;Provided that no person entering on any private premises for the purpose of soliciting or receiving alms shall be so arrested or shall be liable to any proceedings under this Act except upon a complaint of the occupier of the premises.

4. Application of Sections 5 to 10.—

The provisions of Section 5 to 8 shall apply only if the State Government have notified a place as a workhouse or as a special home; the provisions of Section 9 shall apply if the State Government have notified a place as a workhouse; and the provisions of Section 10 shall apply if the State Government have notified a place as a special home and the provisions of Sections 10-A, 12-A and 23 shall apply if the State Government have notified any leper asylum appointed under Section 3 of the Lepers Act, 1898 (Central Act 3 of 1898) as a special home under clause (2) of Section 2.

5. Persons arrested for offence under Section 3 to be examined by medical officer.—

Any person arrested by a Police officer for an offence punishable under Section 3 who in the opinion of such Police officer has attained the age of eighteen years shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. The Magistrate shall without delay order the person to be taken before a medical officer not below the rank of Assistant Surgeon; and the medical

officer shall after examining such person grant a certificate regarding his age and physical capacity for ordinary manual labour.

6. Arrested person to be produced before a Juvenile Court, if found to be under eighteen.—

If in the opinion of such medical officer the person arrested has not attained the age of eighteen years, such person shall without delay be produced, together with the certificate of the medical officer, before a Juvenile Court and the provisions of Section 12 or Section 12-A shall then apply to the case.

7. Arrested person to be produced before Magistrate, if found to be eighteen or over.—

(1) If in the opinion of such medical officer the person arrested has attained the age of eighteen years, he shall, without delay, be produced before a Magistrate together with the certificate and a report by a Police officer of the facts of the case. (2) The Magistrate shall make a summary inquiry into the facts of the case and the circumstances and the character of the person produced before him. (3) During such inquiry the Magistrate shall explain to such person the facts alleged against him in the Police report and record any statement which he may wish to make with reference thereto. (4) If such person disputes the correctness of the Police report in any material respect, the Magistrate shall proceed as nearly as may be in accordance with the procedure laid down for the trial of summons cases, in the Code of Criminal Procedure, 1898 (Central Act of 1898)

8. Orders to be passed by Magistrate, if he finds accused to be under eighteen.—

If the Magistrate finds that the person in respect of whom an inquiry is made under Section 7 is guilty of an offence under Section 3, but had not attained the age of eighteen years, the Magistrate may pass any order which a Juvenile Court could have passed if such person had been produced before it under sub-section (1) of Section 12.

9. Power of Magistrate to order detention of able-bodied accused of eighteen or over to workhouse.—

(1) If the Magistrate finds that the person in respect of whom such enquiry is made is guilty of an offence under Section 3, has attained the age of eighteen years, and is physically capable of ordinary manual labour, the Magistrate may, if there is a workhouse instead of sentencing him under Section 3, order him to be detained in such workhouse for a period of not less than one year and not more than three years; Provided that if the Magistrate is satisfied from the circumstances of the case that the person convicted is not likely to beg again, he may release the beggar after due admonition in a bond executed with or without sureties, as the Magistrate may require by the beggar or any other person whom the Magistrate considers suitable. Such bond shall provide for the beggar's abstaining

from begging and being of good behaviour for such period not exceeding two years as the Magistrate may direct.(2)Any person who commits an offence under Section 3 in breach of the bond executed under the proviso to sub-section (1), shall, if in the opinion of the Magistrate he is physically capable of ordinary manual labour, be punishable with imprisonment for a term which may extend to six months and the Magistrate may also order the forfeiture of the bond aforesaid;Provided that the Magistrate may, instead of sentencing the offender as aforesaid, order him to be detained in a workhouse for a period of not less than three years and not more than five years.

10. Power of Magistrate to order detention of accused who is not able-bodied to special home.—

If the Magistrate finds that the person (other than a person who is a leper) in respect of whom an inquiry is made under Section 7 is guilty of an offence under Section 3 and has attained the age of eighteen years but is not physically capable of ordinary manual labour, the Magistrate may, if there is a special home, instead of sentencing him under Section 3, order him to be detained in such home for a period of not less than one year and more than three years.

10A. Powers of Magistrate to order indefinite detention of lepers.—

(1)If the Magistrate finds that the person in respect of whom and enquiry is made under Section 7 is guilty of an offence under Section 3 and has attained the age of eighteen years and is satisfied on a certificate issued by a qualified medical officer, that such person is a leper, the Magistrate may instead of sentencing him under Section 3, order him to be detained indefinitely in a leper asylum appointed under Section 3 of the Lepers Act, 1898 (Central Act 3 of 1898) and notified to be a special home under clause (2) of Section 2 until he is released in the circumstances stated in sub-section (2).(2)The leper detained under sub-section (1) may be released on any one of, or more of the following grounds, namely:—(i)if a qualified medical officer certified that the person detained has been fully rehabilitated;(ii)if any person, whom the Magistrate considers suitable, execute a bond with or without sureties, as the Magistrate may require making himself responsible for the housing, medical treatment and maintenance of such person and for preventing him from begging or being used for the purpose of begging;(iii)on such other ground as may be prescribed.(3)The certificate referred to in sub-section (1) of clause (i) of sub-section (2) shall be in such form and shall be issued within such time as may be prescribed.

11. Magistrate's finding regarding age to be final.—

Where a Magistrate has arrived at a finding regarding the age of a person dealt with by him under Section 8, 10 or 10-A such age shall, for the purposes thereof, be deemed to be his true age, and no order or judgement of the Magistrate shall be deemed to be invalid or be liable to be interfered with in appeal or revision on the ground that the age of such person was not correctly determined by the Magistrate.

12. Production of arrested person under eighteen before Juvenile Court and procedure and powers of such Court.—

(1) If any person arrested by a Police-officer for an offence punishable under Section 3 has, in the opinion of such Police-officer, not attained the age of eighteen years, he shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. On such production the Magistrate shall without delay direct the person to be taken before a Juvenile Court established under sub-section (i) of Section 36 of the Tamil Nadu Children Act 1920 (Tamil Nadu Act 4 of 1920). The person shall then be dealt with under the provisions of that Act as modified by the provisions of this Section; Provided that if the Juvenile Court is satisfied on inquiry that such person has attained the age of eighteen years it shall record a finding to that effect, and thereupon it shall be open to the Police to proceed against such person under Section 3, or if there is a work-house or a special home, under Section 5; and in the latter case the medical officer referred to in Section 5 shall be required to certify only regarding the physical capacity of such person for ordinary manual labour and the finding of the Juvenile Court regarding the age of such person shall also be binding on the Magistrate before whom he may be produced. (2) If the Juvenile Court finds on inquiry that any person brought before it under sub-section (1) has not attained the age of fourteen years and is guilty of an offence under Section 3 and that he—(a) has no home or settled place of abode or visible means of subsistence, or has no parent or guardian, or has a parent or guardian who does not exercise proper guardianship, or (b) is destitute and both his parents or his surviving parent, or in the case of an illegitimate child, his mother, are or is undergoing detention in prison on conviction, or (c) is under the care of a parent or guardian who by reason of criminal or drunken habits is unfit to have such care. the court may pass such order in respect of the offender as it could have passed if he had been brought before it under sub-section (1) of Section 29 of the Tamil Nadu Children Act 1920 (Tamil Nadu Act 4 of 1920); Provided that if the Juvenile Court is satisfied that it is inexpedient to send the offender to an approved school by reason of his bodily ailment or incapacity or other cause, the Court may, if there is a special home and separate accommodation is provided in such home for persons who have not attained the age of fourteen years, order him to be detained in such home for a period of not less than one year and not more than three years. (3) If the Juvenile Court finds on inquiry that a person produced before it under sub-section (1) has attained the age of fourteen years but has not attained the age of eighteen years and that he is guilty of an offence under Section 3, the Court may order him to be detained for a period of not less than one year and not more than three years—(a) in case it finds that he is physically capable of ordinary manual labour in a workhouse, if there is one, and (b) in case it finds that he is not physically capable of ordinary manual labour, in a special home, if there is one.

12A. Power of Juvenile Court to order indefinite detention of Juvenile lepers.—

Notwithstanding anything contained in Section 12, if the Juvenile Court finds on inquiry that any

person brought before it under sub-section (1) of that Section has not attained the age of eighteen years and is satisfied on a certificate issued by a qualified medical officer that such person is a leper, the Juvenile Court may, instead of dealing with him under sub-section (1), (2) or (3), as the case may be, of that Section order him to be detained indefinitely in a leper asylum appointed under Section 3 of the Lepers Act, 1898 (Central Act 3 of 1898) and notified to be a special home under clause (2) of Section 2, until he is released in the circumstances stated in sub-section (2) of Section 10-A.

13. Penalty for begging after detention as beggar.—

(1)Notwithstanding anything contained in this Act, whoever having been previously detained in a work-house or a special home under this Act is found begging shall on conviction by a Magistrate, be punished as hereinafter in this Section provided.(2)When a person is convicted for the first time under sub-section (1), the Magistrate shall order him to be detained in a work-house or a special home, as the case may be, for not less than three years and not more than seven years and may convert any period of such detention not exceeding one year into a sentence of imprisonment extending to a like period.(3)When a person is convicted for the second or subsequent time under sub-section (1) the Magistrate shall order him to be detained in a work-house or a special home, as the case may be, for not less than three years and not more than ten years and may convert any period of such detention not exceeding two years into a sentence of imprisonment extending to a like period.

14. Contribution by parents.—

(1)The Magistrate who makes an order for the detention of any person in a work-house or a special home under this Act may make an order requiring the parent or other person liable to maintain the person detained to contribute to his maintenance, if able to do so, in the prescribed manner.(2)The Magistrate before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the person detained and shall record evidence if any, in the present of the parent or such other person, as the case may be.(3)Any order made under this Section may at any time be varied by the Magistrate on an application made to him by the party affected by the order.(4)Any order made under this Section may be enforced in the same manner as an order under Section 488 or the Code of Criminal Procedure, 1898 (Central Act 5 of 1898)58.

15. Magistrate may order detention of persons wholly dependent on beggar .—

(1)When the Magistrate has ordered the detention of a person in a work-house or a special home under this Act, he may, after making such inquiry as he thinks fit, order any other person who is wholly dependent on such person to be detained in a work-house or a special home, as the case may be, for a like period:Provided that before such order is made, such dependent person shall be given an opportunity of showing cause why it should not be made.(2)Where the dependent person has not attained the age of fourteen years, the Magistrate shall forward him to a Juvenile Court which shall deal with him under the Tamil Nadu Children Act , 1920 (Tamil Nadu Act 4 of 1920), as if the said

person had been brought before it under sub-section (1) of Section 29 of the said Act: Provided that where the dependent person is the beggar's own child below the age of five years and the beggar is an able-bodied mother not being a contagious leper or a lunatic, the child may be ordered to be detained in a work-house without being separated from the mother as regards the place of detention, until it attains the age of five years and thereafter dealt with as provided in this sub-section.(3) For the purpose of this Section, the Magistrate may, if necessary, cause the dependent person to be arrested and brought before himself and examined by a Medical Officer. The person so arrested shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

16. Power to order further detention of physically incapable beggars.—

(1) When any person who is detained in a special home under this Act is, whether on an application made by him to otherwise considered by the State Government to be blind, cripple or otherwise physically incapable of doing any work, the State Government may order that he shall, after the expiry of the period of this detention, be further detained indefinitely in a special home: Provided that the State Government may release any such person if any person whom the State Government consider suitable, executes a bond, with or without sureties as the State Government may require making himself responsible for the housing and maintenance of such person and for preventing him from begging or being used for the purpose of begging.(2) The powers conferred on the State Government by sub-section (1) may also be exercised by such authority as may be prescribed. A copy of every order passed by the prescribed authority under this sub-section shall be communicated forthwith to the State Government with such particulars relating to the person concerned as may be prescribed.

17. Penalty for employing or causing persons to beg or using them for purposes of begging.—

(1) Whoever employs or causes any person to solicit or receive alms, or (2) Whoever having the custody, charge or care of a person who has not attained the age of fourteen years connives at or encourages the employment or the causing of such person to solicit or receive alms, or (3) whoever uses another person as an exhibit for the purpose of begging, shall, on conviction, be punishable with imprisonment for a term which may extend to one year and thereafter with detention in a workhouse or special home, as the case may be, for a period of not less than one year and not more than three years or with imprisonment for a term which may extend to two years.

18. Transfer from one workhouse or special home to another.—

(1) The State Government may, subject to such conditions as may be prescribed, direct any person detained in a work-house or special home to be transferred therefrom to another work-house or special home, as the case may be; Provided that the total period of detention of such person shall not

be increased by such transfer.(2)The powers conferred on the State Government by sub-section (1) may also be exercised by such authority as may be prescribed. A copy of every order passed by the prescribed authority under this sub-section shall be communicated forthwith to the State Government with such particulars relating to the person transferred as may be prescribed.(3)In directing such transfers, the State Government or the prescribed authority shall have regard to the medical report, and the directions, if any, made by the Magistrate or Juvenile Court, under Section 23.

19. Parole.—

(1)Subject to such conditions as may be prescribed, the Commissioner of Police in the City of Chennai and the Superintendent of Police elsewhere may, at any time, grant permission to a person detained in a work-house or a special home to absent himself for such period as may be specified.(2)The period during which such person is absent from a work-house or a special home during the continuance of a permission granted to him under this Section shall, for the purpose of computing his term of detention in a work-house or a special home, be deemed to be part of his detention.

20. Conditional release.—

(1)Subject to such conditions as may be specified, the State Government may, of their own motion or on application, at any time, release a person detained in a work-house or a special home.(2)Any order of release issued under sub-section (1) shall be in force until the expiry of the term for which the person was ordered to be detained in a work-house or a special home, as the case may be, unless sooner revoked.(3)The State Government may, at any time, revoke the order of release issued under sub-section (1) for any violation of the conditions subject to which the order was issued and thereupon the person released shall be detained in a work-house or a special home, as the case may be, until the expiry of the period for which he had been ordered to be detained.

20A. Powers to remit period of detention.—

(1)When any person has been detained in a work home or a special home, the State Government may, at any time remit any part of the period of detention ordered under any of the provisions of this Act.(b)The State Government may make Rules providing for the conditions and restrictions subject to which remission under sub-section (1) may be granted.

21. Unconditional release.—

At any time after the expiration of three months from the commencement of the release of any person under sub-section (1) of Section 20, the Commissioner of Police in the City of Chennai and the Superintendent of Police elsewhere, may, if he is satisfied from the circumstances of the case that such person is not likely to beg again, recommend to the State Government may thereupon, release such person unconditionally and on such release the term for which such person had been

ordered to be detained in a work-house or a special home shall be deemed to have expired.

22. Procedure on sentence of imprisonment.—

When any person ordered to be detained in a work-house or a special home, as the case may be, is also sentenced to imprisonment, the Magistrate passing the sentence of imprisonment shall forthwith forward such person to a jail in which he is to be confined together with the warrant and a copy of the order of detention. After the sentence of imprisonment is fully executed, the officer executing it shall, if detention in a work-house or a special home for any period remains to be undergone by such person, forward him forthwith together with the copy of the order of detention to the work-house or the special home, as the case may be.

23. Medical examination and detention of lepers and lunatics.—

(1)After a person is received in a special home under the orders of a Magistrate or the Juvenile Court under this Act, the officer in charge of the special home shall cause him to be examined, as soon as may be, by such Medical Officer as the State Government may, by general or special order, direct.(2)The Medical Officer shall make his report to the officer in charge of the special home stating inter alia —(a)whether the person is a leper suffering from contagious leprosy or not;(b)from what, if any, communicable disease other than leprosy the person is suffering; (c) whether the person is an idiot or of unsound mind;(c)any other particulars which may be prescribed.(3)Where the medical report states that the beggar is a contagious leper or a lunatic, the officer in charge of the special home, shall forthwith forward the report to the Magistrate who or the Juvenile Court which, passed the order of detention. The Magistrate or the Juvenile Court shall thereupon examine the Medical Officer as a witness and shall reduce the examination to writing. If, after the examination and upon such further inquiry, if any, as he or it thinks fit, the Magistrate or the Juvenile Court is of opinion that the beggar is a contagious leper or a lunatic, he or it shall record a finding to that effect and shall direct that the detention already ordered shall be under gone by the beggar —(i)if a contagious leper, in a leper asylum appointed under Section 3 of the Lepers Act, 1898 (Central Act 3 of 1898) and notified to be a special home under clause (2) of Section 2;(ii)if a lunatic, in an asylum established or licensed under Section 84 of the Indian Lunacy Act , 1912 (Central Act 4 of 1912) and notified to be a special home under clause (2) of Section 2.(4)Notwithstanding anything in the Lepers Act, 1898 (Central Act 3 of 1898) or the Indian Lunacy Act , 1912 (Central Act 4 of 1912), if any leper asylum appointed under Section 3 of the Lepers Act, 1898 (Central Act 3 of 1898) or any asylum established or licensed under Section 84 of the Indian Lunacy Act , 1912 (Central Act 4 of 1912) is notified to be a special home under clause (2) of Section 2, the Superintendent of such leper asylum or the person in charge of such lunatic asylum, as the case may be, shall also have authority to detain persons sent thereto in accordance with a direction of the Magistrate of the Juvenile Court under Section 10-A or Section 12-A or under this Section, as the case may be.

24. Seizure and disposal of animal used for the purpose of begging.—

(1) Any Police Officer effecting the arrest of a person who was found begging may seize any animal used for the purpose of begging and detain in pending production before the Magistrate or the Juvenile Court. (2) Pending conclusion of the trial, the Magistrate or the Juvenile Court may make such order as he or it thinks fit for the proper custody of the animal produced under sub-section (1). (3) The Magistrate or the Juvenile Court may, when the trial is concluded, order that the animal be destroyed or confiscated to the State Government or delivered to the person claiming to be entitled to the possession thereof.

25. Persons to be deemed public servants.—

All persons empowered to perform functions under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code (Central Act 45 of 1860).

26. Central Act 5 of 1898 to apply to bonds taken under the Act.—

The provisions of Chapter 42 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) shall, so far as may be, apply to bonds taken under this Act.

27. Appeals.—

For the purposes of appeal and revision under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) an order of detention under this Act shall be deemed to be a sentence of imprisonment for the same period.

28. Power to make Rules.—

(1) The State Government may make Rules for carrying out all or any of the purposes of this Act. (2) In particulars and without prejudice to the generality of the foregoing power, such Rules may provide for or regulate—(a) all matters expressly required or allowed by this Act to be prescribed; (b) the management of work-houses and special homes, the detention of persons ordered to be detained in such work-houses and special homes and the maintenance, care, treatment and instruction of such persons, including all matters relating to their diet and accommodation as well as their labour and general conduct; (c) the discharge of persons from such work-houses and special homes; (d) the obtaining of suitable employment outside such work-houses and special homes for persons detained therein; (e) the nature, incidents and maximum periods of the punishments to be imposed on persons detained in work-houses and special homes for breach of any Rules or for failure or neglect to accept any suitable employment outside such work-houses and special homes which may be obtained for them; and (f) the manner of medical examination of beggars. (3) All Rules made under this Act shall be published in the Fort St. George Gazette and unless they expressed to come into force on a particular day, shall come into force on the day on which they are so published. (4) Every Rule made under this Act shall, as soon as possible, after it is made, be placed on

the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such Rule or both Houses agree that the Rule should not be made, the Rule shall there-after have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

29. Repeal.—

On the date of coming into force of this Act in the City of Chennai, Sections 71-A to 71-L of the Chennai City Police Act, 1888 (Tamil Nadu Act 3 of 1888) shall stand repealed.