

CHAPTER 33

HOUSES OF DETENTION

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF HOUSES OF DETENTION FOR VAGRANTS.

Ordinances
Nos. 5 of 1907,
21 of 1930,
Act
No. 26 of 1955.

[20th May, 1907.]

1. This Ordinance may be cited as the Houses of Detention Ordinance.

Short title.

2. In this Ordinance the word "vagrant" means—

Interpretation.

- (a) any person found asking for alms;
- (b) any person not being physically able to earn, or being unwilling to work for, his own livelihood and having no visible means of subsistence:

Provided that priests or pilgrims gathering alms or failing to work for their livelihood shall not be deemed vagrants, if the gathering of alms is prescribed by their religion or order, or is in performance of any religious vow or obligation, or if they are prohibited by their religion or order or by any such vow or obligation as aforesaid from working for their own livelihood.

3. (1) It shall be lawful for the Minister to provide houses of detention at such place as he shall think proper within Sri Lanka for the reception of vagrants.

Power of Minister to establish houses of detention.

(2) There shall be appointed from time to time such superintendents and medical and other officers as may be necessary for the management of such houses of detention. The appointments, transfers and discipline of such officers and their removal from office when necessary shall be governed by the appropriate procedure prescribed under Article 55(4) of the Constitution.

(3) Every such superintendent and officer shall be deemed to be a public officer within the meaning of the Penal Code.

Detention of vagrants on order of a Magistrate's Court.

4. (1) When any person has been convicted of any offence by a Magistrate's Court under its summary jurisdiction, or when any person appears or is brought before such court under the provisions of section 10, if after due inquiry the Magistrate is of opinion that the person so convicted or appearing or brought before the court is a vagrant within the meaning of this Ordinance, he may, in addition to or in substitution for any punishment which he has power to inflict, order such person to be detained in a house of detention. Any such order shall declare that the person against whom it is made is a vagrant, and shall also, if practicable, state any prior date from which, in the opinion of the Magistrate, such person has been in Sri Lanka a vagrant as defined by this Ordinance. Such order shall be a sufficient authority to the police for keeping in custody such person on the way to the house of detention and to the superintendent for receiving and detaining him there.

(2) Every person detained in a house of detention under this section shall be detained until he avails himself of suitable employment found for him, or until he is removed or discharged as hereinafter mentioned.

(3) Every person so detained shall be put to any labour of which the medical officer shall certify him to be capable.

Persons detained may be sent to hospital.

5. Any person detained in a house of detention may, if the medical officer considers it necessary, be sent to a hospital or other suitable place for treatment; but shall be deemed while in such hospital or other place to be still an inmate of the house of detention.

Regulations for management of houses of detention.

6. (1) It shall be lawful for the Minister from time to time to make regulations for the management of houses of detention. Such regulations may provide among other things for—

- (a) the search of the person and clothing of any person admitted to the house;
- (b) the custody or destruction of the clothing and effects of the inmates;
- (c) their diet, dress, and accommodation;
- (d) personal cleanliness, hours, meals, labour, and general conduct;

- (e) recording particulars for the future identification of inmates;
- (f) their discharge.

(2) The Minister may prescribe punishment for disobedience to such regulations to be inflicted by the superintendent not exceeding one week's confinement, or one week's reduced diet (the nature of such confinement and of such reduced diet to be prescribed by the regulations), or both such punishments.

7. The superintendent of any house of detention shall use his best endeavours to obtain suitable employment outside the house for the vagrants admitted thereto.

Superintendent to endeavour to find employment for vagrants.

8. (1) Any vagrant detained in a house of detention may enter into an agreement in writing with the Secretary to the Ministry, binding himself to embark on such ship and at such time as the superintendent of the house of detention may direct, for the purpose of being removed from Sri Lanka at the expense (if any) of the Government of Sri Lanka, and not to return to Sri Lanka within five years without the permission of the Minister.

Agreements to leave Sri Lanka.

(2) Every such agreement shall be exempt from stamp duty, and shall be in the form in the Schedule or to a like effect.

(3) When a vagrant has entered into such agreement, unless in the opinion of the superintendent of the house of detention suitable employment is likely to be speedily found for such vagrant, the superintendent may enforce such agreement and cause such vagrant to be removed from Sri Lanka, and if he deems it desirable may call in the assistance of the police to place such vagrant on board ship, and such vagrant may be detained on board, and shall be deemed in lawful custody while the ship is within the jurisdiction of Sri Lanka.

Enforcement of agreement.

9. (1) If within a reasonable time not exceeding three months from the date when he was committed to such house a vagrant who is not a Citizen of Sri Lanka has refused or neglected either to avail himself of suitable employment found for him or to enter into such agreement as herein before mentioned, the President may order him to be repatriated, and he shall be

Removal of vagrants from Sri Lanka.

repatriated accordingly; and any person returning to Sri Lanka after having been repatriated under this Ordinance shall be guilty of an offence, and shall be liable on conviction thereof to imprisonment of either description for a term not exceeding six months.

Discharge of vagrants.

(2) The Minister may at any time order any person detained in a house of detention to be discharged.

Arrest without warrant of vagrant refusing to appear before Magistrate's Court.

10. Any person who, being apparently a vagrant, refuses or fails to accompany a police officer, or to appear before a Magistrate's Court when required to do so, for the purposes of this Ordinance, may be arrested without warrant, and shall on conviction before a Magistrate's Court be liable to imprisonment of either description for any term not exceeding three months.

Power to arrest persons escaping from houses of detention.
[§ 2, 26 of 1955.]

11. (1) An officer appointed for the purposes of this Ordinance may arrest without a warrant any person who escapes from a house of detention in which he is detained. The provisions of sections 24, 25 and 27 of the Code of Criminal Procedure Act. No.15 of 1979 shall apply to an arrest made under the preceding provisions of this subsection, although the person making the arrest is not acting under a warrant and is not a peace officer having authority to arrest.

(2) Where a person is arrested under the provisions of subsection (1) of this section, the officer arresting that person shall take him back to the house of detention from which he escaped and, in case such officer is a person other than the superintendent of that house, such officer shall hand him over to the superintendent.

Penalty on vagrant for escape.

12. Any vagrant who escapes from the police while committed to their charge under this Ordinance, or who leaves a house of detention without permission of the superintendent, or who, having with such permission left a house of detention for a limited time or a specified purpose, fails to return at the expiration of such time or when such purpose has been accomplished or proves to be impracticable, shall on conviction before a Magistrate's Court be liable to imprisonment of either description for any term not exceeding three months.

13. Nothing contained in this Ordinance shall be construed to prevent the prosecution of any person for any offence punishable under the Vagrants Ordinance.

Saving of prosecutions under the Vagrants Ordinance.

SCHEDULE

[Section 8 (2).]

FORM OF AGREEMENT TO LEAVE SRI LANKA

Articles of agreement made this _____ day of _____ 19____, between the Secretary to the Ministry of _____ of the one part and *A. B.* of _____ (the vagrant) of the other part, Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

Exempt from stamp duty.

1. The said *A. B.* shall embark on board such ship and at such time as the superintendent of the house of detention shall direct.

2. The said *A. B.* shall remain on board such ship until such ship shall have arrived at the port of _____.*

*Here insert name of port to which *A. B.* agrees to go.

3. The said *A. B.* shall not return to Sri Lanka until five years shall have elapsed from the date of such embarkation, unless he shall be specially permitted to return by the Minister of _____.

4. The said Secretary to the Ministry of _____ shall contract with the owner of such ship or his agent for the passage of the said *A. B.* on board such ship and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof the said Secretary to the Ministry of _____ and said *A.B.* have hereunto set their hands the day and year first above written.

Secretary to the Ministry of _____
A. B.