

# **Bengal Act VII of 1943**

## **THE BENGAL VAGRANCY ACT, 1943.**

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The Bengal Vagrancy Act, 1943.  
(Chapter 1.— Preliminary, —Sections 2, 3.)

7. In this Act, unless there is anything repugnant in the subject of context,

- (1) "Board" means the Vagrancy Advisory Board established under sub-section (1) of section 3;
- (1a) "Board of Visitors" means a Board of Visitors established under sub-section (1) of section 13A;
- (2) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866;
- (3) "child" means a person under the age of fourteen years;
- (4) "Controller" means the Controller of Vagrancy appointed under sub-section (1) of section 4;
- (6) "prescribed" means prescribed by rules made under this Act;
- (7) "receiving centre" means a house or institution ("or the reception and temporary detention of vagrants, provided by the [State] Government or certified as such under sub-section (1) of section 12;
- (8) "Special Magistrate" means a Magistrate empowered to act as such under section 5;
- (9) "vagrant" means a person \* \* found asking for alms in any public place, or wandering about or remaining in any public place in such condition or manner as makes it likely that such person exists by asking for alms but does not include a person collecting money or asking for food or gifts for a prescribed purpose;
- (10) "vagrants' home" means an institution provided by the [State] Government under sub-section (1) of section 13 for the permanent detention of vagrants.

3. (1) The [State] Government as soon as possible after the commencement of this Act shall establish a Board to be called the Vagrancy Advisory Board.

(2) The Board shall be constituted in the manner prescribed, subject to the condition that the number of members of the Board shall not be less than ten.

\*This clause was inserted by s. 2 of the Bengal Vagrancy (Amendment) Act, 1970 (West Bengal Act 19 of 1970).

\*Clause (5) was amended by prim. 3 of, and the Eleventh Schedule (of the Adaptation of Laws Order, 1951)

\*See footnote 4 on page 559, *nine*.

\*The word "and" in sub-section (1) of section 13 should be "or".



(3) The function of the Board shall be to advise the [State] Government on all matters relating to the control of vagrancy and in particular on the administration of this Act and for the aforementioned purposes any member of the Board may enter and inspect at any time any receiving centre or vagrants' home,

(4) The Board may, with the previous approval of the [State] Government, make regulations to provide for,

- (a) the times and places at which its meetings shall be held;
- (b) the issue of notices concerning such meetings and;
- (c) the conduct of business thereat.

4. (1) For carrying out the purposes of this Act the [State] Government may appoint a person to be Controller of Vagrancy together with such other persons to assist him as it thinks fit.

Appointment of Controller of Vagrancy and his assistants

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such functions as may be required by or under this Act.

5. For the purpose of Chapter II of this Act the [State] Government may empower any Presidency Magistrate in Calcutta and any Magistrate of the first class elsewhere to act as a Special Magistrate.

Special Magistrates

#### CHAPTER II Procedure.

6. Any police officer authorised in this behalf by the Commissioner of Police in Calcutta and by the District Magistrate elsewhere may require any person who is apparently a vagrant to accompany him or any other police officer to, and to appear before, a Special Magistrate.

Power to require apparently vagrant to appear before Special Magistrate.

7. (1) When a person is brought before a Special Magistrate under section 6, such Special Magistrate shall make a summary inquiry in the prescribed manner into the circumstances and character of such person, and if, after hearing anything which such person may wish to say he is satisfied that such person is a vagrant, he shall record a declaration to this effect and the provisions of this Act relating to vagrants shall thereupon apply in such person.

Summary inquiry in respect of apparently vagrant and declaration of person to be vagrant by Special Magistrate.

<sup>1</sup> See foot-note A on page 559, *vide*,  
For notification empowering the Police Magistrates of Hiiwrah. 2-1 Paiganas and Sealdah to act as?, Special Magistrates *vi-iffirio*. ILT noli Pit.; II ion No. 435 G.A., dated 13.2.18. published in the *Calcutta Gazette* of IV IS. pan I. page 231

(Chapter 11.—Procedure.—Sections 6, 9.)  
The Bengal Vagrancy Act, 1943.

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(2) If on making the summary inquiry referred to in sub-section (1) the Special Magistrate is not satisfied that the person brought before him under section 6 is a vagrant such person shall forthwith be released.

(3) A Special Magistrate recording a declaration under sub-section (1) that a person is a vagrant shall forthwith send a certified copy of such declaration to the Controller, and to the officer-in-charge of the receiving centre to which such vagrant is sent under sub-section (1) of section 8,

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in receiving  
centres  
and  
files  
of  
vagrants.

8. (1) When a person has been declared to be a vagrant under subsection (1) of section 7 he shall forthwith be sent in the manner prescribed to the nearest receiving centre and there handed over to the custody of the officer-in-charge of such receiving centre, and such vagrant shall be detained in such receiving centre until he is sent therefrom to a vagrants' home under sub-section (1) of section 9.

(2) As soon as possible after the commencement of the detention of a vagrant in a receiving centre the medical officer of such receiving centre shall with such medical help as may be necessary medically examine the vagrant in the manner prescribed as quickly as is consistent with the circumstances of the case and shall thereupon furnish the officer-in-charge of the receiving centre with a medical report regarding the health and bodily condition of the vagrant.

(3) The medical report referred to in sub-section (2) shall state *inter alia*,—

- (a) the sex and age of the vagrant;
- (b) whether the vagrant is a leper;
- (c) from what, if any, communicable diseases other than leprosy the vagrant is suffering;
- (d) whether the vagrant is insane or mentally deficient;
- (e) what is the general state of health and bodily condition of the vagrant and for which, if any, of the prescribed types of work he is fit.

Procedure:  
for sending  
vagrants  
to  
homes.

9. (1) On receipt of the medical report referred to in sub-section (2) of section 8 the officer-in-charge of a receiving centre shall, as soon as the necessary arrangements can be made, send the vagrant in the prescribed manner to such vagrants' home as the Controller may by general or special order in this behalf direct, and the said officer-in-charge shall along with such vagrant send to the Manager of the said vagrants' home,

- (a) the certified copy of the declaration made under sub-section (1) of section 7 relating to such vagrant which is to be sent to such officer-in-charge under sub-section (3) of the said section, and
- (b) the said medical report.

of 1943.]

(Chapter II.—Procedure,—Section 10)

(2) When vaarani is sent to a vagrants' home under the provisions of sub-section (1) he shall be handed over to the custody of the Manager of such vagrants' home and shall be detained therein, or in a vagrants' home to which he may be transferred under section 1C>, until duly discharged therefrom under section 18,

(3) In issuing any order under sub-section (1) the Controller shall ensure that the following classes of vagrants, namely:

- (a) lepers,
- (b) the insane or mentally deficient,
- (c) those suffering from communicable diseases other than leprosy,
- (d) children,

are segregated from each other and from vagrants who do riot belong to any of the aforementioned classes and shall also ensure that the male vagrants are segregated from the female vagrants:

Provided that the provisions of this sub-section in respect of children may be relaxed as prescribed

10. (1) If after an inquiry made under sub-section (1) of section 7 the Special Magistrate is satisfied that the person brought before him under section 6 is a vagrant but, in the course of such inquiry, it has appeared that the vagrant was not born in the area in which this Act is in force or has not been continuously resident [herein for more than one year, the Special Magistrate, after making such further inquiry, if any, as he may deem necessary, may by order in writing direct the said vagrant to leave the said area within such time and by such route or routes as may be stated in the order and not to return thereto without the permission in writing of the Controller, and in such case, notwithstanding anything contained in sub-section (1) of section 7, the provisions of sections 8 and 9 shall not apply to such vagrant:

Enacted by the  
Legislature of  
the State of  
West Bengal  
in the year  
1943.

Provided that if the Special Magistrate deems it necessary to make any further inquiry as aforesaid in respect of such vagrant, the vagrant shall be detained pending conclusion of the said inquiry in such receiving centre as the Controller may by general or special order in his behalf direct and for this purpose shall be sent thereto in the manner prescribed and there handed over to the custody of the officer-in-charge of such receiving centre and shall, while he is so detained, be subject to the rules of management and discipline referred to in sub-section (1) of section 15.

(2) The Controller shall not give the permission referred to in sub-section (1) unless, if the vagrant had been detained in a vagrants' home, such vagrant would have been eligible to have been discharged therefrom under the provisions of sub-section (1) of section 18.

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(Chapter II.—Procedure.—Section 11.—Chapter III.—Receiving Centres and Vagrants' Home.—Sections 12, 13.)

(3) When a vagrant against whom an order has been made under sub-section (1) fails to comply with such order within the time specified therein, or after complying with the said order returns without the permission in writing of the Controller to any place within the area referred to in the said order, such vagrant may be arrested without a warrant by any police officer, and shall be liable, on conviction before a Magistrate, to be punished with rigorous imprisonment for a term which may extend to six months.

11. A declaration that a person is a vagrant recorded by a Special Magistrate under sub-section (1) of section 7 shall be sufficient authority to any person to retain such vagrant in his custody when such person is under the provisions of this Act or of any rule made thereunder conveying a vagrant from the Court of a Special Magistrate to a receiving centre or, from a receiving centre to a vagrants' home or from one vagrants' home to another and to the officer-in-charge of a receiving centre and to the Manager of a vagrants' home for detaining such vagrant in accordance with the provisions of this Act in a receiving centre or vagrants' home, as the case may be.

#### CHAPTER III Receiving Centres and Vagrants' Home

12. (1) The [State] Government may provide and maintain together with the necessary furniture and establishment one or more receiving centres at such place or places as it thinks fit or may certify by notification in the *Official Gazette* any existing charitable or other institution, subject to the prior consent of the controlling authority of such institution and on such conditions as may be mutually agreed upon between the [State] Government and the said authority, to be a receiving centre for the purposes of this Act.

(2) For the purposes of this Act every receiving centre shall be under the immediate control of an officer-in-charge who shall be appointed by the [State] Government and who shall perform his functions subject to the orders of the Controller.

(3) The [State] Government shall also appoint for every receiving centre one or more suitably qualified persons as medical officers.

13. (1) The [State] Government may provide and maintain together with the necessary furniture, equipment and establishment, one or more vagrants' homes at such place or places as it thinks fit and such vagrants' homes may include provision for the

teaching ol' agricultural, industrial or *either* pursuits and lor the general educaiiion and medical care of the inmates.

(C)HtpU!- HI.—Receiving Centra and Va^ixmts' Hvttie.— Spawns 13A, 1-1 & 15.)

(2) livery such vagranls" home shall be under the immediate charge of a Manager who shall be appointed by the [State] Government and who shall perform his functions subject to the orders of the Controller.

(3) The [State] Government may appoint in respect of a vagrants' home a suitably qualified person as medical officer and one or more suitably qualified persons as teachers.

13A. (1) For every receiving centre and every vagrants' home, the State Government shall establish a Board of Visitors, constituted in such manner and consisting of such number of members as may be prescribed.

(2) A Board of Visitors may visit [the] receiving centre or the vagrants' home for which it is established and record its comments on any matter it may think fit pertaining to the working of the receiving centre or the vagrants' home for the consideration of the officer-in-charge of the receiving centre or the Manager of the vagrants' home and for (his purpose, any member of the Board of Visitors shall have the right to visit such receiving centre or vagrants' home at any time between the hours of sunrise and sunset.

(3) Copies of comments recorded by a Board of Visitors under subsection (2) shall, as soon as may be after they are recorded, be forwarded by the officer-in-charge of the receiving centre or the Manager of the vagrants' home, as the case may be, to the Board.

14. Every officer-in-charge of a receiving centre or Manager of a vagrants' home may order that any vagrant detained in such receiving centre or vagrants' home shall be searched and that the personal effects of such vagrant shall be inspected and any money then found with or on the vagrant shall be applied in the manner prescribed towards the welfare of vagrants and any of such effects other than money may be sold in auction and the proceeds of the sale shall be applied as aforesaid:

Provided that a female vagrant shall be searched by a female only and with due regard to decency.

15. (1) Vagrants detained in receiving centres or vagrants' homes under this Act shall be subject to such rules of management and discipline as may from time to time be prescribed.

Management  
and  
discipline

Explanation. Discipline includes the enforcement of the doing of manual or other work by a vagrant.

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(Chapter III.—Receiving Centres and Vagrants' Home.— Sections 16-18.)

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(2) If any vagranti wilfully disobeys or neglects to comply with any rule referred to in sub-section (1) he shall on conviction before a Magistrate be liable to be punished with rigorous imprisonment for a term which may extend to three months.

(3) The Government may authorise the Manager of a vagrants' home to punish any vagrant detained in such vagrants' home who wilfully disobeys or neglects to comply with any rule referred to in sub-section (1) with hard labour of the type prescribed for any period not exceeding seven days; and such punishment may be in lieu of or in addition to any punishment to which the vagrant may be liable under sub-section (2).

Transferor  
vagrants  
from the  
home

16. The Controller may by order in writing direct the transfer of a vagrant from one vagrants' home to another and a vagrant in respect of whom such an order is passed shall thereupon be sent in the manner prescribed to, and handed over to the custody of, the Manager of the vagrants' home to which he has by such order been transferred.

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purpose  
of  
employing  
vagrants

17. The Manager of a vagrants' home shall use his best endeavours to obtain outside the vagrants' home suitable employment for vagrants detained therein.

18. (1) A vagrant may be discharged from a vagrants' home under orders of the Controller.

- (a) on the Manager of such vagrants' home certifying in the prescribed manner that satisfactory employment has been obtained for such vagrant;
- (b) on his being shown to the satisfaction of the Controller that such vagrant has become possessed of an income sufficient to enable him to support himself without resorting to vagrancy;
- (c) that a relative of such vagrant, or a person who the Controller is satisfied is interested in the welfare of such vagrant, entering into a bond with or without sureties for a sum prescribed, to look after and maintain such vagrant and to prevent him from resorting to vagrancy;
- (d) for other good and sufficient reasons to be recorded by the Controller in writing.

(Chapter IV.—Penalties and Miscellaneous.—  
Sections 19-22.)

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' (2) When the employment referred to in clause (a) of sub-section (1) has been obtained for a vagrant, any such vagrant refusing or neglecting to avail himself thereof shall be liable to be punished on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to one month.

CHAPTER V **Penalties and Miscellaneous.**

19. Whoever employs or causes any person to ask for alms, or abets the employment or the causing to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to two years or with fine or with both.

20. Any person refusing or failing to accompany a police officer to, or to appear before a Special Magistrate, when required by such officer under section 6 to do so, may be arrested without warrant, and shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month or with fine, or with both.

21. Any vagrant who refuses to submit to a medical examination by the medical officer of a receiving centre or by any person assisting such medical officer under the provisions of sub-section (2) of section 8 shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month.

22. Any vagrant who escapes from any custody to which he has been committed under this Act or any rule made thereunder or who leaves a receiving centre without the permission of the officer-in-charge thereof, or who leaves a vagrants' home without the permission of the Manager thereof, or who, having with the permission of such officer-in-charge, or Manager, as the case may be, left a receiving centre or a vagrants' home for a time specified under any rule referred to in sub-section (1) of section 15, wilfully fails to return on the expiration of such time, may be arrested without warrant and shall, for every such offence, be liable to be punished, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

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*(Chapter IV—Penalties and Miscellaneous.— Sections 23-2S.)*

23. Every person imprisoned under [the provisions of sub-section (2) of section 15, sub-section (2) of section 18, section 20, section 21 or section 22 shall at the end of his term of imprisonment be brought under police custody before the nearest Special Magistrate who shall forthwith deal with such person in the manner laid down in sections 7, 8 and 9 as if such person had been brought before such Special Magistrate under the provisions of section 6:

Procedure  
Likelihood  
imprison-

Provided that if the said Special Magistrate is of the opinion that such person would, if detained under this Act as a vagrant in a vagrant's<sup>1</sup> home, be eligible to be discharged therefrom under the provisions of sub-section (I) of section 18, he may, instead of dealing with such person as aforesaid, direct that such person be released and such person shall thereupon be set at liberty.

24. (1) No prosecution for an offence under this Act may be commenced except by, or with the permission of, such officer as may be prescribed in this behalf.

(2) No offence under this Act shall be triable by any Magistrate other than a Presidency Magistrate or a Magistrate of the first class.

25. All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Prosecution  
jurisdiction  
liability

26. No suit, prosecution or other legal proceeding shall lie against any person empowered to perform any function under this Act for anything which is in good faith done or intended to be done under this Act,

Persons to be  
(killed)  
public  
servants.

27. [Repeal.—Repealed by section 3 and the Second Schedule to West Bengal Act VII of 1945.]

28. (1) The [State] Government may make rules<sup>1</sup> for carrying out the purposes of this Act.

Act XLV of  
1860.

Indemnity.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the purposes for which a person may collect money or ask for food or gifts referred to in clause (b) of section 2;
- (b) the constitution of the Board referred to in sub-section (2) of section 3:

Power to  
make rules

<sup>1</sup> vide Act No. 11 of 1945, *ibid.*  
-For the Bengal Vagrancy Act, 1943, see the Notification No. 999-P.H. dated the 25th September 1943 published in the *Cult. Bull. (in-cltr.)* of 1943, part 1, p. 160.

(Chapter IV—Penalties and Miscellaneous,—  
Section 29.)

- (c) the manner in which the summary inquiry referred to in sub-section (1) of section 7 shall be made;
- (d) the manner in which a vagrant is to be sent to a receiving centre under sub-section (1) of section 8 and the proviso to sub-section (1) of section 10;
- (e) the manner in which a medical officer is medically to examine a vagrant under sub-section (2) of section 8;
- (f) the types of works for which a vagrant may be reported for under clause (e) of sub-section (3) of section 8;
- (g) the manner in which a vagrant is to be sent to a vagrants' home under sub-section (1) of section 11;
- (h) the manner in and the extent to which the provisions of sub-section (3) of section 9 in respect of children may be relaxed;
- (hh) the manner in which a Board of Visitors may be constituted under sub-section (1) of section 13A and the number of members which a Board of Visitors may consist of;
- (i) the manner in which the money found with or on, or the proceeds of the sale of other personal effects of, a vagrant may be applied to the welfare of vagrants under section 14;
- (j) the management and discipline referred to in sub-section (1) of section 13 to which vagrants detained in receiving centres and vagrants' homes shall be subject;
- (k) the type of the hard labour which is to form the punishment which may be awarded under sub-section (3) of section 15; (l) the manner in which a vagrant may be sent from one vagrants' home to another under section 16;
- (in) the manner in which the Manager of a vagrants' home is to certify under clause (a) of sub-section (1) of section 18 that satisfactory employment has been obtained for a vagrant;
- (n) the amount of the bond referred to in clause (c) of subsection (1) or section 18;
- (o) the officer referred to in sub-section (1) of section 24.

29. Any rules made or anything done or any action taken or any proceedings commenced in exercise of any power conferred by or under the Bengal Vagrancy Ordinance, 1943. shall, on the said Ordinance ceasing to be in operation, be deemed to have been made, done, taken or commenced in exercise of powers conferred by or under this Act as if this Act had commenced on the 30th day of July, 1943,

(L.iiiiv' (till) ivns by s. 1 of the Bengal Vagrancy (Amendment) Act, 1970  
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Ordinance II of  
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