

CHAPTER 44

VAGRANTS

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO VAGRANTS.

Nos. 4 of 1841,
7 of 1873,
7 of 1889,
17 of 1889,
19 of-1889,
12 of 1891,
3 of 1894,
3 of 1904,
21 of 1919,
3 of 1930,
51 of 1941,
20 of 1947,

Act
No. 2 of 1978.

[1st January, 1842.]

Short title.

1. This Ordinance may be cited as the Vagrants Ordinance.

Punishment of persons behaving riotously or disorderly in the public streets.

2.* Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding five rupees :

Provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following section respecting idle and disorderly persons.

Persons who are deemed idle and disorderly persons.

3.* (1) (a) Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the paragraph (d) of the next succeeding section ;

(b) every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner ;

(c) every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other

receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself;

(d) every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon ;

(e) every person who in or upon any wharf, jetty, street, road, walk, passage, verandah, or other place situated within any proclaimed area and used by or accessible to the public, persistently and without lawful excuse follows, accosts, or addresses by words or signs any person against his will and to his annoyance,

shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.

(2) A police officer may arrest without a warrant every person deemed to be an idle and disorderly person.

(3) In this section, " proclaimed area " means any area declared by the Minister by Order published in the Gazette, to be a proclaimed area for the purposes of this section.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extry. No. 43/4 of 1979. 07. 02.

Who are deemed to be rogues and vagabonds.

- 4.* (a) Every person convicted a second time of being idle and disorderly ;
- (b) every idle and disorderly person resisting any constable or police officer apprehending him ;
- (c) every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere, to the annoyance and disgust of others ;
- (d) every person wandering abroad, or placing himself in any public place, street, highway, court, or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases to obtain or gather alms ;
- (e) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences,

shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding twenty rupees.

Who are deemed to be incorrigible rogues.

5. (a) Every person convicted a third time or more often of being idle and disorderly ; or
- (b) every person convicted a second time or more often of being a rogue and vagabond ; and
- (c) every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance,

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-four lashes.

Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extry. No. 43/4 of 1979.07.02.

6. Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding section be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months-

Incorrigible rogue may be required to give security for future good behaviour.

7. (1) The following persons, that is to say—

Soliciting and acts of indecency in public places.

- (a) any person in or about any public place soliciting any person for the purpose of the commission of any act of illicit sexual intercourse or indecency, whether with the person soliciting or with any other person, whether specified or not;
- (b) any person found committing any act of gross indecency, or found behaving with gross indecency, in or about any public place ;
- (c) any person found—

(i) in any public enclosure contrary to any local by-laws or regulations prescribing the use of such enclosures ; or

(ii) in any enclosure belonging to the State, without the permission of the person in charge thereof; or

(iii) within any private enclosure attached to any dwelling house, except upon the invitation of any inmate of the premises,

under such circumstances that it is reasonable to infer that he is there present for immoral purposes, unless he is able to explain his presence to the satisfaction of the court by which he is tried,

shall be guilty of an offence, and shall be liable on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both.

(2) In any case in which any person who has been convicted of an offence under paragraph (a) of the last preceding subsection shall subsequently be convicted of another such offence, he shall, if a male, in addition to any other punishment to which he may be sentenced by the court, be liable, at the discretion of the court to -be whipped.

exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding, abetting, or compelling the prostitution of such person with any other person or generally, shall, unless the court is satisfied by evidence to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Female offender may be committed to house of detention.

8. In any case in which the offender against any of the provisions, whether of the last preceding section or any other preceding section of this Ordinance, is a female, the court may in its discretion direct, both in respect of any imprisonment to which she may be sentenced in the first instance and in respect of any imprisonment to which she may be sentenced in default of payment of a fine, that, instead of being imprisoned in one of the regular prisons of Sri Lanka, she shall be committed to any house of detention established under the Houses of Detention Ordinance, and there detained until the expiration of her sentence, and sections 5 and 6 of the said Ordinance shall apply to every such person so detained.

10. (1) In the following cases, that is to say :—

Detention of youthful bad characters.

- (a) where any person being a male between the ages of twelve and twenty-one has been convicted by a Magistrate of any offence under sections 3 (1) (e), 7, or 9 ;
- (b) where a Magistrate is satisfied that any person within the local limits of his jurisdiction, being a male between the ages aforesaid, is found habitually wandering about the streets and accosting persons therein, or in the company of disorderly or immoral persons or of reputed criminals, and that such person has no regular occupation, or no other occupation than that of professing to render casual services to persons requiring them,

Punishment of certain classes of incorrigible rogues.

9. (1) Any person who—
 (a) knowingly lives wholly or in part on the earnings of prostitution ;
 (b) systematically procures persons for the purpose of illicit or unnatural intercourse,

it shall be lawful to the Magistrate, after due inquiry into the antecedents, connections, and habits of such person, if he is satisfied that the offender is addicted to unnatural vice, or is otherwise of corrupt or immoral habits, either—

shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable—

- (i) on summary conviction to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one hundred rupees, or to both ; or
- (ii) on conviction on indictment to imprisonment of either description for a period not exceeding two years, and if a male, in addition to any such imprisonment, if the court in its discretion directs, to be whipped.

(i) to require such person to execute a bond, with or without sureties, to the satisfaction of the Magistrate, to be of good behaviour for a period not exceeding twelve months, and subject to such conditions as the Magistrate may determine, and in default thereof, to commit such person to prison for a period not exceeding six months, there to be detained and employed at such productive labour as may be prescribed by prison rules ; or

(2) Every male person who is proved to live with, or to be habitually in the company of, a prostitute, and every person, whether male or female, who is proved to have

(ii) if after due inquiry into all the circumstances of the case, the Magistrate is satisfied that the offender is a person who ought not

to be allowed the option of giving security for good behaviour, or that he can be more appropriately and beneficially dealt with in manner hereinafter provided, to commit such person, if he is under sixteen years of age, to an approved school within the meaning of the Children and Young Persons Ordinance, or if he is over that age, to any institution established by law for the reclamation and industrial training of juvenile offenders, there to be detained for a period of not less than three years.

(2) If any such person is not already in custody, the Magistrate may enforce his attendance either by summons or warrant, as he may think fit.

(3) The Magistrate may direct the detention of any person so brought before him for the purpose of necessary inquiries, and may, if he shall so think fit direct a medical examination of such person.

(4) The Magistrate may at any time direct any person committed to prison under this section in default of finding satisfactory sureties to be released from prison on such sureties being forthcoming.

(5) The Minister may at any time direct that any person committed to an approved or certified school shall be transferred to any institution established by law for the reclamation and industrial training of juvenile offenders, or direct the release of any person detained either in such school or institution.

(6) When a Magistrate makes an order under subsection (1) (ii) of this section, the proceedings shall be submitted to the Court of Appeal, and the order shall not be executed unless it is confirmed by the Court of Appeal.

(7) If, when such proceedings are submitted, the Court of Appeal thinks that a further inquiry should be made, or additional evidence taken upon any point, the court may make such inquiry or take such evidence itself, or direct it to be taken by the Magistrate. Unless the Court of Appeal otherwise directs, the presence of the convicted persons may be dispensed with when such inquiry is made, or such evidence is taken.

(8) When the inquiry and the evidence, if any, are not made and taken by the Court of Appeal, the result of such inquiry and the evidence shall be certified to the Court of Appeal.

(9) In any case so submitted to the Court of Appeal, the court—

(a) may confirm the sentence, or pass any other sentence justified by law ; or

(b) may allow the conviction and convict the accused of any offence of which the Magistrate might have convicted him, or order a new trial on any other charge or on an amended charge ; or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

(10) This section shall apply only within such defined areas as shall be specially appointed by the Minister by Order published in the Gazette.

11. (1) Every person, having the custody, charge, or care of a girl, who causes or encourages the seduction or prostitution or unlawful carnal knowledge of the said girl, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred rupees,' or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

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the seduction
or prostitution
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girl.

(2) Without prejudice to the generality of subsection (1), a person shall, for the purposes of this section, be deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or become a prostitute or been unlawfully carnally known, if he has knowingly allowed the girl to associate with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

(3) No person shall be liable to conviction under this section who as parent or guardian has given his consent to a girl living with any man as his wife.

Security by parent or guardian of girl-

12. (1) Where it is shown to the satisfaction of a Magistrate on the complaint of any peace officer at the instance of any probation officer that any girl is with the knowledge of her parent or guardian exposed to the risk of seduction or prostitution, or of being unlawfully carnally known, or is living a life of prostitution, the Magistrate may require the parent or guardian of such girl to show cause why he should not be ordered to execute a bond with or without sureties for the exercise of due care and supervision in respect of the girl-

(2) For the purposes of this section, a Magistrate shall have all the powers which are conferred on a Magistrate by sections 84 to 92, both inclusive, 93 and 94 of the Code of Criminal Procedure Act, in relation to securities for keeping the peace and for good behaviour and those sections shall apply, mutatis mutandis, to bonds executed or ordered to be executed under this section.

(3) Imprisonment for failure to execute a bond on the order of a Magistrate under this section shall be simple.

(4) No person shall be liable to execute a bond under the provisions of this section who as parent or guardian has given his consent to a girl living with any man as his wife.

(5) Where any girl, in respect of whom any person has been ordered to execute a bond under this section is removed for any period from the custody, care, or charge of such person under sections 13, 14, or 17, no action shall be taken to enforce the bond during the period of such removal, and if at any time thereafter the girl shall be restored to the custody, care, or charge of such person, the said bond shall remain of full force and effect,

Detention of girl in place of safety.

13. (1) Any peace officer may, on the complaint of a probation officer, remove to a place of safety to be selected by such probation officer any girl in respect of whom an offence under section 11 has been, or is reasonably believed by him to have been, committed.

(2) Any girl so removed to a place of safety may be there detained for a period not exceeding seven days, unless before the expiry of that time it has been decided that no charge will be made in respect of the said

offence, in which case the girl shall be released on such decision being reached, but otherwise she shall be brought before a Magistrate before the expiry of the said seven days and may be detained in the said place of safety until the Magistrate has made an order in relation to the girl under the next subsection.

(3) (a) Where it appears to a Magistrate that an offence has been committed under section 11 in respect of any girl who is brought before him and that it is expedient in the interests of the girl that an order should be made for her care and detention, he may, without prejudice to any other power, make such order as the circumstances may require for the care and detention of the girl until a charge has been made against some person in respect of the offence ;

(b) If any such charge is made against any person, the order may be extended until the charge has been determined by the conviction or discharge of the person charged, and

(i) in the case of his conviction, it may be further extended for a period not exceeding twenty-one days as the convicting Magistrate may direct; and

(ii) in the case of his discharge, it shall be forthwith void except with regard to anything lawfully done thereunder ;

(c) Any such order as is mentioned in subsections (2), (3) (a), or (3) (b) may be carried out notwithstanding that any person claims the custody of the girl.

14. (1) When any person having the custody, charge, or care of any girl has been— Disposal of girl by order of court

(a) convicted of an offence under section 11 in respect of the girl» or

(b) ordered to execute a bond in respect of the girl under section 12,

by a Magistrate, the Magistrate may, in his discretion, order that the girl be taken out of the custody, care, or charge of the person so convicted or bound over, and be delivered into the custody of a relative of the girl or some other fit person or society,

approved and named by the Magistrate, until she attains the age of sixteen years or for any shorter period.

(2) Before any such order is made, the consent and ability of such relative or other person or society to undertake such custody shall be proved to the satisfaction of the Magistrate.

(3) Any such order may be from time to time renewed, varied, or revoked by the Magistrate who made the same, or by any other Magistrate within whose jurisdiction the girl resides, either of his own motion or on the application of any person.

(4) If the girl has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian—

- (a) has been convicted of the offence ; or
- (b) is proved to the satisfaction of the Magistrate making the order to have been party or privy to the offence ; or
- (c) has been ordered to execute a bond in respect of the girl under section 12 ; or
- (d) cannot be found.

(5) Every order under this section shall be in writing, and may be made in the absence of the girl.

(6) The Minister may at any time discharge any girl from the custody of any person or society into whose custody she has been delivered under this section either absolutely or on such conditions as he may approve.

(7) It shall be lawful for the Minister to make rules in relation to girls delivered into the custody of any person or society under this section, and to the maintenance of such girls, and to the duties of such persons or societies with respect to such girls.

(8) All rules made under this Ordinance shall be laid, as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament and shall be brought before Parliament at the next subsequent meeting held thereafter by a motion that the said rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are

disapproved by Parliament such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder ; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

15. (1) Any person or society into whose custody a girl is delivered by order under section 14 shall, whilst the order is in force, have the like control over the girl as if such person or society were the parent of the girl, and shall be responsible for the maintenance of the girl, who shall continue to be in custody of such person or society notwithstanding that she is claimed by her parent or any other person.

(2) Every person who—

- (a) knowingly assists or induces, directly or indirectly, any girl to escape from the person or society into whose custody she has been so delivered ; or
- (b) knowingly harbours, conceals, or prevents from returning to such person or society, any girl who has so escaped, or knowingly assists any such harbouring, concealment, or prevention,

shall on summary conviction thereof be liable to a fine not exceeding one hundred rupees, " or to imprisonment of either description for any term not exceeding three months.

(3) On the complaint or application of the person or society into whose custody any girl has been delivered by order under section 14, the Magistrate making the order of delivery may make a further order on the parent or other person liable to maintain the girl to contribute any specified sum not exceeding fifteen rupees a month for that purpose, and to pay the same in such manner as the Magistrate may direct to the person or society into whose custody the girl is delivered.

(4) Every such order of maintenance shall be in writing and shall be enforceable in like manner as if the girl had been ordered to be sent to an approved or certified school under the Children and Young Persons Ordinance, and also by a further order for

control and maintenance of girl delivered into custody of any person or society by order of court

the attachment and payment to the person named by the Magistrate of any pension or income due to the parent or other person liable to maintain the girl, including any pension or income due to him from the State. Such further order shall be a full authority to the person by whom such pension or other income is payable to make the payment ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first-mentioned person.

Offences to be non-cognizable and bailable.

16. Offences under sections 11 and 15 of this Ordinance shall be deemed non-cognizable and bailable within the meaning of the Code of Criminal Procedure Act.

Search warrant.

17. (1) If it appears to a Magistrate on information on oath laid by any probation officer that there is reasonable cause to suspect that an offence has been or is being committed in respect of any girl, he may issue a warrant authorizing all or any peace officers to search for such girl, and if it is found that an offence has been or is being committed in respect of her, to take her to and detain her for a period not exceeding seven days in a place of safety selected by the said probation officer and named in the warrant until she can be brought before a Magistrate.

(2) Any peace officer authorized by warrant under this section to search for any girl may enter (if need be by force) any house, building, or other place specified in the warrant and may remove the girl therefrom.

(3) It shall not be necessary in any information or warrant under this section to specify the name of the girl.

Sanction of Attorney-General for prosecution, &c.

18. No prosecution shall be instituted for an offence against section 11, and no complaint shall be made under section 12, without the sanction of the Attorney-General in writing.

Protection of peace officers and probation officers.

19. No proceedings civil or criminal shall be instituted against any peace officer or probation officer for any act bona fide done or omitted to be done in pursuance of any of the powers or duties conferred or imposed upon him by this Ordinance.

Officers neglecting their duty.

20. In case any grama seva niladhari, constable, or other peace officer aforesaid shall neglect his duty in anything required of him by this Ordinance, he shall be liable for

every such offence to a fine not exceeding fifty rupees, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

21. In case any person shall hinder, disturb, or molest any grama seva niladhari, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not exceeding thirty rupees, or to imprisonment with or without hard labour for any period not exceeding four months ; and

every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding fifty rupees or to imprisonment for any period not exceeding six months with or without hard labour.

22. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every ten rupees of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months ; and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

23. No prosecution shall be instituted against any person for offences under sections 2, 3, 4, 5, 6, 20 and 21 of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

Sworn statement by person leaving Sri Lanka.

24. (1) A sworn statement made by a person about to leave Sri Lanka before—

- (a) a Justice of the Peace ; or
- (b) any police officer not below the rank of a Sub-Inspector ; or
- (c) the customs officer for the time being in charge of the Colombo passenger jetty, not being below the rank of a charges officer,

taken in the presence of the person accused under such circumstances that he has a 'full opportunity of asking questions of the person making the statement, and signed by such person, may, if the person making the statement has left Sri Lanka, be given in evidence against the person accused on any charge under section 3 (1) (e).

(2) It shall be the duty of the Justice of the Peace or other person before whom any such statement is made, before tendering it for the signature of the person making it, to read it over to such person in the presence of the accused, and to explain the statement to the accused, and upon it being signed by the person making it, to certify that the requirements of this section have been complied with.

(3) A statement produced in court and purporting to be certified under this section shall be prima facie evidence of the facts therein stated ; but the court may require the attendance of any person present when such statement was taken, for the purpose of examination with respect thereto.

25. In this Ordinance, unless the context Interpretation. otherwise requires—

- (a) " girl " means a girl under the age of sixteen years ;
- (b) " guardian ", in relation to a girl, includes any person who, in the opinion of the court having cognizance of any case or matter relating to the girl, has for the time being charge of or control over the girl;
- (c) " legal guardian ", in relation to a girl, means a person appointed according to law to be her guardian by deed or will or by order of a court of competent jurisdiction ;
- (d) " peace officer " includes police officers and grama seva niladharis appointed by a Government Agent in writing to perform police duties ;
- (e) " place of safety " means any hospital, institute, house, home, or other suitable place, the occupier of which is in the opinion of the probation officer after due inquiry a person of respectable character, and is willing to receive a girl temporarily ;
- (f) " probation officer " means any person appointed to be a probation officer under the provisions of the Probation of Offenders Ordinance.