

THE KHYBER PAKHTUNKHWA VAGRANCY RESTRAINT ACT, 2020

(KHYBER PAKHTUNKHWA ACT NO. VIII OF 2020)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Constitution of the Steering Committee.
4. Powers and Functions of the Steering Committee.
5. Meetings of the Steering Committee.
6. Establishment of Dar-ul-Kafala.
7. Functions of the Dar-ul-Kafala.
8. Manager.
9. Functions of the Manager.
10. Voluntary admission to Dar-ul-Kafalas.
11. Powers of police officers to arrest and search vagrants and to seize things liable to confiscation.
12. Trial.
13. Sentence for vagrancy.
14. Punishment for employing or causing persons to ask for alms.
15. Presumption.
16. Compulsory contribution by persons bound to maintain vagrants.
17. Transfer of vagrants from Dar-ul-Kafala.
18. Release on probation.
19. Power to discharge vagrants from Dar-ul-Kafala.
20. Cognizable and bailable.
21. Appeal.
22. Indemnity.
23. Power to make rules.

THE KHYBER PAKHTUNKHWA VAGRANCY RESTRAINT ACT, 2020

(KHYBER PAKHTUNKHWA ACT NO. VIII OF 2020)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 27th January, 2020).

AN ACT

to provide for care, rehabilitation and reintegration of vagrants in the Province of the Khyber Pakhtunkhwa.

WHEREAS, it is expedient to provide for care, rehabilitation and reintegration of vagrants in the Province of the Khyber Pakhtunkhwa to restrain vagrancy in the society and for the matters connected therewith or incidental thereof;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Vagrancy Restraint Act, 2020.

(2) It shall extend to the whole Province of the Khyber Pakhtunkhwa.

(3) It shall come into force in such areas on such dates as the Government may, by notification in the official Gazette, direct.

2. Definitions.--- In this Act, unless the context otherwise requires the following expressions and shall have the meanings hereby respectively assigned to them, that is to say-

- (a) “Steering Committee” means the Steering Committee constituted under section 3 of this Act;
- (b) “Chairperson” means the Chairperson of the Steering Committee;
- (c) “Government” means the Government of the Khyber Pakhtunkhwa;
- (d) “prescribed” means prescribed by rules;
- (e) “Manager” means the Manager appointed under section 8 of this Act;
- (f) “public place” includes any road, public park, garden, railway station, bus stands, adda, ground or public transport;
- (g) “rules” means the rules made under this Act;
- (h) “Special Magistrate” means a Magistrate especially empowered by Government to act under the provisions of this Act;

- (i) “vagrant” means a person who-
 - (i) solicits or receives alms in a public place;
 - (ii) exposes or exhibits any sore, wound, injury, deformity or disease in a public place for the purpose of soliciting or receiving alms;
 - (iii) allows himself to be used as an exhibit for the purpose of soliciting or receiving alms; and
 - (iv) enters on any private premises without the invitation of the occupier for the purpose of soliciting or receiving alms; and
- (j) “Dar-ul-Kafala” means an Institution established under section 6 of this Act.

3. Constitution of the Steering Committee.---As soon as after the commencement of this Act, Government shall constitute a Steering Committee to be known as the Vagrancy Restrain Steering Committee, which shall consist of the following:

- (i) Secretary to Government, Zakat, Usher Social Welfare, Special Education and Women Empowerment Department; Chairperson
- (ii) Deputy Secretary, Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa; Vice Chairperson
- (iii) Director, Human Rights and Parliamentary Affairs Department or his nominee not below the rank of BPS-18; Member
- (iv) District Officers, Social Welfare, Special Education and Women Empowerment; Members
- (v) representative of concerned Deputy Commissioner; Member
- (vi) representative of Provincial Police Officers, Khyber Pakhtunkhwa Police Department; and Member
- (vii) Director, Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa. Member-cum-Secretary

4. Powers and Functions of the Steering Committee.---(1) Subject to the provisions of this Act, the Steering Committee shall exercise such powers and perform such functions, as may be necessary, to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing sub-section, the Steering Committee shall-

- (a) lay down the policy, guidelines and issue directions for efficient and effective performance of the Dar-ul-Kafala and achievement of its objectives;
- (b) maintain general supervision over the affairs of the Dar-ul-Kafala;
- (c) examine and approve the procedure for care, detention, training and maintenance of vagrants;
- (d) mobilize and motivate the general public for all kinds of contributions for the well-being of the vagrants;
- (e) generate resources for the well-being of vagrants;
- (f) encourage Non-Profit Organizations to provide facilitation to vagrants at Dar-ul-Kafala ;
- (g) introduce innovative programs related to skill oriented disciplines for the vagrants;
- (h) advised Government on all matters relating to control of vagrancy in the Province;
- (i) inspect at any time any Dar-ul-Kafala ; and
- (j) perform such other functions as may assigned by Government.

(3) The Steering Committee may delegate any of its powers to any member or officer appointed for the purpose.

5. Meetings of the Steering Committee.---(1) Meeting of the Steering Committee shall be convened by the Chairperson on its own on such date and at such place, as he may deem appropriate or on the request of the half of the members.

(2) The Steering Committee shall meet at least once in three months.

(3) Meeting of the Steering Committee shall be presided over by the Chairperson, or in his absence, by the Vice Chairperson.

(4) Quorum for the meeting shall be one-third of the total membership of the Steering Committee.

(5) All decisions at a meeting shall be made by majority of votes. In the event of equality of votes, the person presiding meeting shall have a second or casting vote.

6. Establishment of Dar-ul-Kafala.---(1) Government shall establish and maintain one or more Dar-ul-Kafala at such place or places as it may think fit for the care, detention, training and maintenance of vagrants and their dependents other than those who are lepers, lunatic or suffering from contagious diseases.

(2) The welfare homes already established under of sub-section (1) of section 3 of the West Pakistan Vagrancy Ordinance, 1958 (Ord. No. XX of 1958), repealed under section 63 of the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, shall deemed to be established as Dar-ul-Kafala under this Act.

7. Functions of the Dar-ul-Kafala.---(1) The Dar-ul-Kafala shall-

- (a) provide shelter to the vagrants; and

(b) provide health care, education and skill development facilities to the vagrants.

(2) Perform any other function as assigned to it by Government.

8. Manager.---Every Dar-ul-Kafala shall be under the immediate charge of a Manager appointed by Government on such terms and conditions as may be prescribed.

9. Functions of the Manager.---(1) The Manager shall refer a vagrant to the Medical Superintendent of the local Hospital for medical examination. He shall prepare a report in light of the medical examination in the manner as may be prescribed.

(2) The Manager shall keep the male and female vagrants separately from each other.

(3) The Manager shall arrange such instructions of the vagrants, as may rehabilitate them in useful trades and make them self-supporting.

(4) The Manager shall submit a certificate regarding the vagrant in term of clause (c) of section 19 of this Act.

(5) The Manager shall release a vagrant on bail, in case of any emergency e.g death of a blood relative, for not more than three days.

10. Voluntary admission to Dar-ul-Kafalas.--- Any vagrant may present himself before the Special Magistrate for being admitted to Dar-ul-Kafala and if the Special Magistrate is satisfied that such vagrant has no source of livelihood, he may be detained in a Dar-ul-Kafala till such time as such vagrant becomes possessed of means of livelihood or applies for his release from custody.

11. Powers of police officers to arrest and search vagrants and to seize things liable to confiscation.---(1) Any police officer may without a warrant of arrest or search, as the case may be, arrest any person and search any person who appears to him to be a vagrant and may seize anything found with such person which he has reason to believe to be used for soliciting alms, liable to confiscation under this Act.

(2) A person arrested under the last preceding sub-section shall be presented before the Special Magistrate within twenty four hours of such arrest, such person may be released, if he furnishes bond to the satisfaction of the Special Magistrate.

12. Trial.--When the person arrested under the last preceding section appears or is brought before the Special Magistrate, he shall be tried in accordance with the procedure prescribed for the trial of summons cases under Chapter XX of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

13. Sentence for vagrancy.---(1) If the Special Magistrate finds that a person is a vagrant, such person shall be send to Dar-ul-Kafala for detention for a period not exceeded three years:

Provided that in any case in which a person who is a habitual vagrant and has been previously convicted of an offence under this Act, shall be punished for imprisonment, which may extend up to three years.

(2) The vagrant so convicted under the forgoing sub-section may be released on furnishing of surety bond with two sureties for satisfaction of the Court.

14. Punishment for employing or causing persons to ask for alms.---Whoever employs or causes any person to solicit or receive alms or uses a person as an exhibit for the purpose of soliciting or receiving alms or being the guardian of a minor connives at or encourages the employment or the causing of the minor to solicit or receive alms shall be punished with imprisonment of either description for a term which may extend to one year or with fine upto rupees five hundred thousand and not less than rupees three hundred thousand or with both.

15. Presumption.---If a person is presented before a Special Magistrate, and he has no ostensible source of subsistence and wanders about or remains in a public place in such condition and in such manner as arises a reasonable suspicion that he is there to solicit or receive alms, it shall be presumed, unless the contrary is proved that such person is a vagrant, and shall be sent to Dar-ul-Kafala.

16. Compulsory contribution by persons bound to maintain vagrants.---(1) If the Special Magistrate is satisfied that a vagrant or a person bound to maintain a vagrant has sufficient means, he shall make an order directing such vagrant or the person bound to maintain such vagrants, as the case may be, to contribute in the prescribed manner towards the maintenance of such vagrant in Dar-ul-Kafala:

Provided that no order under this sub-section shall be made without giving the person from whom contribution is required the opportunity of being heard.

(2) In any contribution directed by the Special Magistrate under the last preceding sub-section remains unpaid, the same maybe recovered as arrears of land revenue.

17. Transfer of vagrants from Dar-ul-Kafala .---The Steering Committee or any other officer specially empowered by Government in this behalf may by an order in writing direct the transfer of a vagrant from one Dar-ul-Kafala to another or to any other place notified by Government in this behalf.

18. Release on probation.---The Special Magistrate may subject to the following conditions release a vagrant on probation-

- (a) after he has served imprisonment for a period not less than one year;
- (b) who detained in a Dar-ul-Kafala and if special Magistrate considers that there is probability of such vagrant abstaining from vagrancy.

19. Power to discharge vagrants from Dar-ul-Kafala.---The Special Magistrate may, discharge a vagrant from Dar-ul-Kafala,-

- (a) if he is satisfied that a vagrant has become possessed of an income sufficient to enable him to support himself without resorting to vagrancy;

- (b) if a relative of such vagrant, or a person interested in the welfare of the vagrant, enter into a bond with or without sureties to look after and maintain such vagrant and to prevent him from resorting to vagrancy;
- (c) on the certificate of the Manager of the Dar-ul-Kafala that satisfactory employment has been obtained for such vagrant; and
- (d) for any other good and sufficient reason to be recorded in writing.

20. Cognizable and bailable.---All offences under this Act shall be cognizable and bailable.

21. Appeal.---(1) Any person aggrieved by an order of a Special Magistrate under this Act may within thirty days of such order appeal to the Session Judge and if such order is made by the Session Judge, to the High Court.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act No.V of 1898) shall mutates mundatis applicable to appeals files under this section.

22. Indemnity.---No suit, prosecutions or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

23. Power to make rules.---Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act.