

CHAPTER 10:25

VAGRANCY ACT

Acts 40/1960, 19/1963 (s. 12), 10/1964, 51/1972, 16/1986; 22/2001 (s. 4); R.G.N.s 801/1963, 214/1964.

ARRANGEMENT OF SECTIONS

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AN ACT to make further provision for the prevention of vagrancy and for dealing with vagrants.

[Date of commencement: 21st October, 1960.]

1 Short title

This Act may be cited as the Vagrancy Act [*Chapter 10:25*].

2 Interpretation

In this Act—

“Designated Officer” means the person declared by the Minister, by statutory instrument, to be the Designated Officer for the purposes of this Act;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“vagrant” means any person who—

(a) has no—

(i) settled or fixed place of abode; or

(ii) means of support;

and who wanders from place to place; or

(b) maintains himself by begging or in some other dishonest or disreputable manner.

3 Power to arrest vagrants

(1) A police officer may arrest without warrant any person whom he reasonably suspects to be a vagrant and shall take such person before a magistrate within forty-eight hours of his arrest.

(2) A police officer who arrests a person in terms of subsection (1) may require such person to submit to the taking of impressions of all the digits of both hands, his palm-prints and his photograph.

(3) Any person arrested in terms of subsection (1) who hinders or obstructs a police officer in taking any action authorized under subsection (2) shall be guilty of an offence and liable to imprisonment for a period not exceeding six months.

[Subsection as amended by section 4 of Act 22 of 2001.]

4 Penalty for harbouring vagrants

(1) Any person who wilfully or knowingly—

(a) assists or encourages any vagrant to pursue his way of life as a vagrant; or

(b) suffers or permits any vagrant, in order to pursue his way of life as a vagrant, to reside on land or premises owned or occupied by such person;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) A police officer may at any time enter in or upon any land or premises on or in which, on reasonable grounds, he believes a vagrant to be.

5 Power to establish reception centres for vagrants

It shall be lawful for the Minister to declare any place inside Zimbabwe to be a reception centre for the detention and maintenance of vagrants pending the completion of inquiries made under section *eight*.

6 Discharge by Minister

The Minister may at any time order the discharge of any person detained at a reception centre.

7 Power to provide re-establishment centres

(1) For the re-establishment of persons in need thereof through lack of regular occupation or of instruction or training or for other reason, the Minister may, after consultation with the Minister responsible for finance, provide centres to be known as re-establishment centres where in consequence of an order of a magistrate made under section *eight* such persons may be detained and be maintained and afforded the occupation, instruction or training requisite to fit them for entry into or return to regular employment.

(2) Re-establishment centres shall be under the control and administration of the Designated Officer and it shall be his duty to make provision whereby persons without a settled way of living may be influenced to lead a more settled life with a view to their entry into or return to regular employment.

8 Powers of magistrates

(1) When any person is brought before a magistrate under section *three*, if after due inquiry the magistrate finds as a fact that such person is a vagrant, he may order that he be detained in a re-establishment centre and shall, at the time of making the order, inform the person concerned of his right to object and to make representations to the President within fourteen days and of the manner in which such representations may be made.

(2) If after due inquiry the magistrate is satisfied that such person is living by honest means and has a settled way of life, he shall forthwith order his release.

(3) The magistrate may from time to time adjourn the proceedings of an inquiry in order to obtain any necessary information or for other good and sufficient cause and may order the person who has been brought before him for such inquiry to be detained in a reception centre pending the conclusion of the inquiry.

(4) An inquiry shall be held as soon as possible after the person concerned has been brought before the magistrate and shall be completed within twenty-eight days unless the person concerned is sooner discharged under section *six* or is otherwise dealt with under this Act or any other enactment.

9 Warrants

(1) A magistrate may issue such warrants as may be necessary to carry into effect any order issued by him under section *eight* and a person when held under such warrant shall be deemed to be in lawful custody.

(2) Any person who, being in lawful custody, escapes from such custody shall be guilty of an offence and liable to imprisonment for a period not exceeding six months, and at the expiry of such sentence such person shall be returned to the custody from which he escaped and dealt with as if such escape had not occurred.

10 Effect of orders made under some other enactment

(1) If, at any time during the course of an inquiry held under section *eight*, representations are made to the magistrate holding the inquiry that the person concerned is or may be a prohibited person in terms of the Immigration Act [*Chapter 4:02*], the magistrate shall adjourn the inquiry until the decision of the appropriate Minister has been made known and if—

(a) such person is or is declared to be a prohibited person, the magistrate shall terminate the inquiry;

(b) such person is not and is not declared to be a prohibited person, the inquiry shall be resumed.

(2) If a person is detained in a re-establishment centre under an order made in terms of section *eight* and thereafter that person is declared or deemed or found to be a prohibited person in terms of the Immigration Act [*Chapter 4:02*], the magistrate, on being satisfied that the person concerned has left Zimbabwe, shall cancel the order of detention.

11 Procedure on objection

If a person in respect of whom an order is made under subsection (1) of section *eight* objects that there are no grounds or no sufficient grounds for the making of the order, he may, within fourteen days of the making of the order, submit to the President representations in writing stating the reasons for his objection and, upon receiving such representations, the President may—

(a) after considering the case, direct either that the order be revoked, in which event the magistrate shall revoke the order, or that the objector be notified that the order will not be revoked; or

(b) refer the matter to a person or a committee of persons nominated by him, not being police officers, and the person or committee so nominated shall interview the objector and examine his objection and, after consideration, shall direct either that the order be revoked, in which event the magistrate shall revoke the order, or that the objector be notified that the order will not be revoked.

12 Regulations

- (1) The Minister may make regulations in regard to any or all of the following matters—
- (a) the establishment, maintenance, management and control of reception centres and re-establishment centres;
 - (b) the establishment of advisory boards for re-establishment centres and the functions and duties of such boards;
 - (c) the functions, powers and duties of officers employed on the staff of reception centres and re-establishment centres;
 - (d) the classification of re-establishment centres and the classification and separation of inmates of a re-establishment centre;
 - (e) the committal and admission of persons to re-establishment centres;
 - (f) the records to be kept at re-establishment centres and the reports to be furnished by the Designated Officer or other officers to the Minister relating to re-establishment centres and the inmates thereof;
 - (g) the conditions whereon and the periods for which leave of absence may be granted to inmates of re-establishment centres and the revocation of such leave of absence;
 - (h) the terms and conditions subject to which inmates may be released on licence, the methods of supervision of such inmates and the revocation of such licences;
 - (i) the matters with regard to which the officer in charge of a re-establishment centre may from time to time prescribe rules for the proper domestic administration and control of the centre;
 - (j) the maintenance of good order and discipline in re-establishment centres and the treatment, training, care and control of the inmates of such centres;
 - (k) enabling inmates to practise their religion and the ministers of their respective denominations to have access to them;
 - (l) the discharge of inmates of a re-establishment centre;
 - (m) the occupation to be given to the inmates of a re-establishment centre during their detention therein and the hours and conditions of such occupation;
 - (n) any matter which in terms of this Act is to be prescribed by regulation;
 - (o) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Any regulation made under subsection (1) may prescribe penalties for any contravention thereof or of any rules prescribed by the officer in charge of a re-establishment centre under powers conferred upon him by regulation.

(3) Penalties referred to in subsection (2) shall, in so far as they relate to persons who are not inmates, not exceed a fine of level four and, in so far as they relate to inmates, may take any one or more of the following forms—

- (a) forfeiture of one or more specified privileges for a specified period;
- (b) forfeiture of allowances, wholly or in part, for a specified period;
- (c) forfeiture of not more than one meal per day for a period not exceeding three days;
- (d) increase of normal hours of training by not more than three hours per day for a period not exceeding three days;
- (e) separation from the other inmates in a place set aside for the purpose at the re-establishment centre for a period not exceeding five days.

[Subsection as amended by section 4 of Act 22 of 2001.]

(4) If any form of punishment mentioned in paragraphs (c), (d) and (e) of subsection (3) is prescribed, the regulations shall specifically provide that no such form of punishment may be imposed unless the medical officer responsible for the medical care of the inmate in question has certified that such punishment, in his opinion, will not be harmful to the health of that inmate.

(5) The Minister may, under subsection (1), make different regulations in respect of different re-establishment centres or different categories of re-establishment centres, and may also in such regulations differentiate in any manner he may think fit between different groups of inmates in re-establishment centres generally or in any particular centre.

13 Maximum period of detention in re-establishment centre

Subject to subsection (6) of section *fourteen*, no person shall be detained in a re-establishment centre for a period exceeding three years.

14 Maintenance of discipline in re-establishment centres

(1) If an inmate of a re-establishment centre contravenes any regulation, the officer in charge of such re-establishment centre may—

- (a) take disciplinary steps against such inmate in accordance with the powers conferred upon him and the procedure prescribed by regulation, and may impose upon him any punishment prescribed for a contravention thereof; or
- (b) cause such inmate to be brought before a magistrates court of the province in which the re-establishment centre is situated, and such court shall have jurisdiction to try such inmate for the offence and to sentence him, in place of or in addition to any penalty provided in the regulations for such offence—
 - (i) to imprisonment for a period not exceeding three months; or
 - (ii) to be kept in confinement apart from the other inmates in a place set aside for the purpose at a re-establishment centre for a period not exceeding thirty days if the medical officer responsible for the medical care of the inmates in the re-establishment centre has certified that such punishment, in his opinion, will not be harmful to the health of such inmate.

(2) When the officer in charge of a re-establishment centre has imposed upon an inmate any sentence in terms of paragraph (a) of subsection (1), the record of the proceedings shall forthwith be transmitted, together with such remarks as the officer may desire to submit therewith and with any written statements or arguments which the inmate may desire to have submitted, to the clerk of the magistrates court of the province in which the re-establishment centre is situated.

(3) The clerk of the magistrates court concerned shall forthwith place the record, together with the remarks, statements or argument, if any, before the magistrate of the province for his consideration.

(4) If the proceedings appear to be in accordance with justice, the magistrate shall endorse his certificate to that effect upon the record and return the record to the officer.

(5) If the proceedings do not appear to be in accordance with justice, the magistrate shall set aside or correct the proceedings and may reduce or vary the sentence, and shall return the record with his instructions thereon to the officer.

(6) If the inmate is sentenced to a term of imprisonment he shall, after the completion of that term, be returned to a re-establishment centre designated by the Designated Officer, and such term of imprisonment shall not count as part of his period of detention in the re-establishment centre.

15 Payment of allowances to inmates

(1) Subject to subsection (2), allowances may be paid to inmates of re-establishment centres in respect of any work performed by them while they are detained therein.

(2) The rates of such allowances, the classes of inmates to whom they are payable, the apportionment of part of such allowances to the dependants of an inmate and any other conditions relating to the payment of such allowances shall be as prescribed by regulation.

16 Method of dealing with inmates who abscond

(1) For the purposes of this section, an inmate shall be deemed to have absconded from a re-establishment centre if—

- (a) having been granted leave of absence, he fails to return to the re-establishment centre on the revocation or expiry of his leave; or
- (b) having been released on licence, he fails on the revocation of his licence to return to the re-establishment centre to which he was directed to return; or
- (c) having been admitted to any hospital at the instance of the officer in charge of the re-establishment centre, he absents himself from such hospital without permission.

(2) An inmate who has or is deemed to have absconded from a re-establishment centre may be arrested without warrant by any police officer or probation officer or by any prescribed officer employed at a re-establishment centre, and shall be brought as soon as may be before a magistrate of the province in which the re-establishment centre from which he absconded or is deemed to have absconded is situated.

(3) A magistrate before whom any such person is brought shall, after having inquired into the reason why he absconded, order that he—

- (a) be returned to the re-establishment centre or hospital from which he absconded; or
- (b) be kept in custody, pending the decision of the Minister, in a prison, police cell or other place regarded by the magistrate as suitable;

and shall in either case forthwith report to the Minister the result of his inquiry and the terms of any order made under this subsection.

(4) On consideration of the magistrate's report and after any further inquiry which he may consider necessary, the Minister shall, if the magistrate has ordered that the person be kept in custody pending his decision, direct that the person—

- (a) be returned to the re-establishment centre or hospital from which he absconded; or
- (b) be transferred to another re-establishment centre; or
- (c) be discharged from further detention in a re-establishment centre.

17 Act not to apply to persons under 16

This Act shall not apply to persons under the age of sixteen years.