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## Leprosy Act, 1904

Act 23 of 1904

Legislation as at 1 December 1998

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## eSwatini

# Leprosy Act, 1904

## Act 23 of 1904

Commenced on 1 October 1904

[This is the version of this document at 1 December 1998.]

An Act to provided for the isolation and detention of persons affected with leprosy.

### 1. Short title

This Act may be cited as the Leprosy Act, 1904.

### 2. Interpretation

In this Act, unless the context otherwise requires—

“**asylum**” means any building or collection of buildings erected and established under [section 3](#), and used for the treatment or detention of persons affected with leprosy, together with the land surrounding such buildings and set apart and defined under the said section for the occupation of such persons;

“**Court**” means the High Court;

“**detention order**” means an order issued under [section 11](#);

“**interim reception order**” means an order issued under [section 8](#);

“**leprosy**” means all forms of disease caused by the *bacillus leproe* of Hansen;

“**magistrate’s court**” means a court established under the Magistrate’s Courts Act, [No. 66 of 1938](#);

“**medical practitioner**” means any person duly registered as such under the law relating to the admission and registration of medical practitioners;

“**Minister**” means the Minister for Health;

“**superintendent**” means any person appointed under [section 14](#) to take control of any asylum.

### 3. Power to establish asylums

- (1) The Minister may erect and establish asylums for the detention of persons removed thereto under this Act, and for the purpose of acquiring sites for the erection and establishment of asylums appropriate and may set apart any unalienated and unreserved Government land, and order the fencing and enclosing of any land so appropriated and set apart.
- (2) The establishment of any asylum and the boundaries of any land appropriated and set apart for such purpose shall be notified and defined by notice in the *Gazette*.

### 4. Duty to notify suspected cases

- (1) If it comes to the knowledge of any person that some other person outside an asylum is affected with, or is suspected of being affected with, leprosy, he shall forthwith report such fact or suspicion upon oath to the Regional Administrator of the region in which he is residing.
- (2) Any person who neglects to act in accordance with this section shall be guilty of an offence.

## 5. Duty of Regional Administrator to isolate suspect

A Regional Administrator to whom a report is made under [section 4](#) shall issue an order requiring a police officer to take steps for the detention of the person mentioned in such report in a place of isolation in the prescribed manner until he has been examined in accordance with [section 6](#).

## 6. Medical examination of suspect

A Regional Administrator who has issued such isolation order shall cause such person to be examined as soon as possible by two medical practitioners, one of whom shall, if possible, be the medical officer of the region, and obtain a report from them of such examination.

## 7. Discharge of suspect

If such medical practitioners report that the person alleged to be affected with leprosy is not affected, the Regional Administrator shall forthwith discharge him from detention in isolation.

## 8. Issue of interim reception order

- (1) If such medical practitioners report that the person alleged to be affected with leprosy is so affected, or that it is doubtful whether he is so affected, the Regional Administrator shall issue an interim reception order directing him to be removed to an asylum, therein to be detained in accordance with this Act.
- (2) Any such interim reception order shall be addressed to the superintendent of some asylum, and shall be delivered to a police officer.
- (3) An interim reception order shall authorise any police officer to conduct the person named therein to the superintendent of the asylum to whom it shall be addressed, and shall further authorise the reception and detention of such person in such asylum until the Minister transmits an order of further detention or discharge to such superintendent as provided in [sections 11, 12 and 13](#).

## 9. Superintendent to examine and report

Any superintendent who has received any person into an asylum under an interim reception order shall forthwith make a medical examination of such person, and shall as soon thereafter as possible transmit to the Minister by post—

- (a) the interim reception order;
- (b) the reports of the medical practitioners mentioned in [section 6](#); and
- (c) a report made by himself as to the condition of such person.

## 10. Voluntary submission to treatment

- (1) If any person suspects that he is affected with leprosy, and desires to submit himself to treatment therefor, or to be placed in isolation in accordance with this Act, he may present himself to the Regional Administrator of the region in which he is residing for such purpose.
- (2) Such Regional Administrator shall thereupon, having ordered such person to be detained in isolation as provided in [section 5](#), require two medical practitioners (one of whom shall, if possible, be the medical officer of the region) to examine such person.
- (3) If such medical practitioners report that such person is affected with leprosy or that it is doubtful whether he is so affected [sections 8 and 9](#) shall apply.

## 11. Issue of detention order

- (1) If the Minister is satisfied that any person detained under an interim reception order is affected with leprosy, he shall make and sign a detention order addressed to the superintendent of any asylum.
- (2) Such detention order shall authorise the detention of the person named therein in accordance with this Act and shall be in force for one year from the date thereof, unless renewed as provided in subsection (3) or (4).
- (3) On the expiry of eleven months from the date of a detention order, the superintendent of the asylum in which such person is detained shall transmit to the Minister a report on the condition of the person named therein, and any further information which the Minister may require, and if, on consideration of such report and information, the Minister considers the further detention of such person necessary or expedient, he may renew such detention order for a further period not exceeding three years.
- (4) The procedure mentioned in subsection (3) shall be repeated one month before the expiry of each such further period, and the detention order may at the end of each such further period be renewed under like circumstances, unless the discharge of such person is sooner ordered.

## 12. Report on and examination of person detained under interim order

- (1) If the Minister is not satisfied that a person detained under an interim reception order is affected with leprosy, he shall submit all medical reports transmitted to him under this Act concerning such person to the Chief Medical Officer and may direct any further medical examination of such person which he may consider necessary.
- (2) If on consideration of the report of the Chief Medical Officer or of any further medical examination he is—
  - (a) satisfied that such person is affected with leprosy, the Minister shall make and sign a detention order as provided in [section 11](#);
  - (b) not satisfied that a person detained under an interim reception order is affected with leprosy, he shall transmit an order to the superintendent of the asylum in which such person is detained, directing his discharge therefrom.

## 13. Power to order discharge

The Minister may, notwithstanding this Act if it appears to him that there is sufficient reason to do so, issue an order to the superintendent of any asylum, directing the discharge of any person from detention therein, or the removal of any person detained therein to another asylum for detention under this Act.

## 14. Appointment of superintendents

- (1) The Minister may recommend medical practitioners for appointment by the Public Service Commission as superintendents and they shall have the direction and management of any asylum to which they are respectively appointed, but in carrying out their functions they shall be subject to the supervision and directions of the Chief Medical Officer.
- (2) The Chief Medical Officer may subject to any regulations made under this Act, recommend persons to the Public Service Commission for appointment as attendants, guards and other officers to any asylums, and their removal.

## 15. Duties of superintendents

A superintendent shall reside at or near the asylum to which he is appointed, inspect such asylum from time to time in accordance with regulations made under this Act and the persons detained therein,

perform all medical offices necessary in respect of such persons, cause proper food and necessary comforts to be supplied to them, cause the premises to be properly and cleanly kept, and perform such other functions as may be conferred upon him by this Act.

#### **16. Communication between detained persons and persons outside**

- (1) No person shall be permitted to enter an asylum except in accordance with the regulations.
- (2) Male and female persons who are detained under this Act, shall be kept in separate parts of an asylum:

Provided that it shall be in the discretion of the superintendent to permit married persons over the age of fifty years, both of whom are persons affected with leprosy, to live together in any asylum.

- (3) Save as provided in this Act, no communication or intercourse shall be allowed between persons detained in an asylum and any person not detained therein who is not an officer or attendant thereof.

#### **17. Suspects and detained lepers deemed in lawful custody**

- (1) Every person placed in isolation, or during the course of removal to, or while detained in, an asylum under this Act shall be deemed to be in lawful custody until discharged therefrom under this Act, and while in such custody shall be subject to this Act.
- (2) Any person who escapes from such lawful custody may be pursued, arrested without warrant, and taken back into custody by any person.
- (3) Any person who aids, or attempts to aid, any person detained in lawful custody under this Act, in escaping, or in attempting to escape from such lawful custody, shall be guilty of an offence.

#### **18. Visitors**

Every person detained in lawful custody under this Act shall be permitted to receive visits from relatives, friends or legal advisers at such reasonable times and subject to such restrictions as may be prescribed.

#### **19. Cost of erection and maintenance of asylums**

The costs of erection, establishment and maintenance of asylums, of the removal of persons thereto, and of the maintenance of any persons detained therein save in so far as such costs of maintenance may be otherwise defrayed in accordance with section 20 of the salaries and wages of superintendents, attendants or other officers of asylums, of the disinfecting and cleansing of the residence of persons isolated, and of the maintenance of such persons during the period of isolation, shall be defrayed out of the Consolidated Fund.

#### **20. Recovery of expenses of maintenance**

If a person detained under this Act has sufficient means the superintendent may receive or recover the expenses of his maintenance from him and allow him to build for himself, or contract to be built, a habitation within the limits of an asylum, and such superintendent may for such purposes enter into special agreements, on behalf of the Minister, with such person or his lawful representative.

## 21. Jurisdiction to try certain offences

- (1) The Judicial Service Commission may with the concurrence of the Minister confer jurisdiction upon any superintendent to try the following classes of crimes and offences, if committed within any asylum for which he has been appointed—
  - (a) crimes and offences committed by persons detained under this Act, which are triable summarily by a magistrate's court of the first class under its ordinary jurisdiction, together with any contraventions of this Act by such persons;
  - (b) contraventions of this Act by attendants, guards and other officers of asylums.
- (2) Any proceedings taken, and any judgment or sentence given or imposed by a superintendent under this section shall be in all respects in accordance with and subject to the law relating to magistrates' courts in the same manner as any proceedings, judgment, or sentence taken, given or imposed in a magistrate's court.
- (3) The Judicial Service Commission may at any time withdraw the jurisdiction from any superintendent which has been conferred upon him under this section.
- (4) This section shall not take away the jurisdiction of a magistrate's court under any law in respect of the trial of or enquiry into crimes and offences, and if any offence which he has no jurisdiction to try is committed in an asylum under his charge the superintendent shall report such fact to the magistrate of the region, who may hold his court at such asylum, for the trial of or enquiry into such offence.

## 22. Administration of property of persons confined or detained

- (1) The Court may appoint a curator for the temporary or permanent care and administration of any property of a person removed to an asylum for detention under this Act, and sections 36 to 42 inclusive of the Mental Disorders Act, [No. 48 of 1963](#), shall *mutatis mutandis* apply for the purposes of the care and administration of the property of such person.
- (2) The Attorney-General shall be *ex officio* the *curator ad litem* of such person during his detention.
- (3) The Attorney-General may lay any reports or evidence concerning the removal of a person for detention under this Act, together with evidence as to any property possessed by such person, before the Court for its consideration, and the Court may thereupon appoint a *curator bonis* for the care or custody of the property of such person.
- (4) If it appears to the Court desirable that temporary provisions should be made for the maintenance or other necessary requirements of such person or any member of his family, out of any money or available securities belonging to him in the hands of his bankers or of any other person, the Court may authorise such banker or other person to pay to the *curator bonis* such sums as may be deemed necessary, and may give directions as to the application thereof for the benefit of such person or for the relief of his family or any members thereof.
- (5) Notwithstanding this section, if any person who has been removed to an asylum for detention under this Act possesses property the estimated value of which does not exceed one thousand emalangeni in respect of the corpus thereof, or one hundred emalangeni per annum in respect of the income thereof, the master of the Court may, on the application of the Attorney-General appoint a curator of the property of such person.

## 23. Cleaning and disinfecting of residence of persons isolated

If any person has been placed in isolation by order of a Regional Administrator under [section 5](#), the Regional Administrator shall cause the residence of such person to be forthwith cleansed and disinfected in accordance with the advice of the medical officer for the region, and in accordance with any further directions given in that behalf by the Chief Medical Officer.

## 24. Photographing of persons confined in asylums

- (1) Any person detained in an asylum under this Act shall submit himself to be photographed whenever the superintendent thinks fit, to enable the course of his disease to be ascertained.
- (2) Any such person who refuses to allow himself to be photographed or obstructs any person entrusted with this duty in the execution of such duty, shall be guilty of an offence.
- (3) Any person who gives, supplies or exhibits any photograph obtained under this section to any person to whom he is not expressly or by regulation authorised to give, supply or exhibit it, shall be guilty of an offence.

## 25. Penalties

An person guilty of an offence under this Act shall be liable upon conviction to a fine not exceeding one hundred emalangen, or imprisonment not exceeding six months, or both.

## 26. Regulations

The Minister may make regulations, and prescribe penalties for the breach thereof not exceeding the penalties mentioned in [section 25](#)—

- (a) for the isolation, examination and removal to asylums of persons affected or suspected of being affected with leprosy;
- (b) for the appointment and duties of superintendents, guards, attendants and other officers of asylums, and the removal of such officers;
- (c) for the classification, treatment, instruction and employment of persons detained in asylums;
- (d) as to the rations and clothing of persons detained in asylums;
- (e) as to the intercourse of persons detained in an asylum with each other, and with persons not so detained, and generally for the discipline and good order of persons so detained;
- (f) as to the setting apart of places within any asylum for the special confinement and punishment of persons convicted and sentenced by superintendents under [section 21](#), or of persons who have been convicted and sentenced by any competent court and removed to an asylum under this Act;
- (g) prescribing forms to be used for the purposes of this Act;
- (h) generally for the carrying out of this Act.

## 27. Report of one medical practitioner where two not available

Notwithstanding this Act whenever undue delay or inconvenience would result from obtaining an examination and report by two medical practitioners the examination and report of one medical practitioner shall suffice for the purpose of an interim reception order under this Act:

Provided that the results of an examination and the report of one medical practitioner shall be confirmed by another medical practitioner, as soon as it can conveniently be obtained.

## 28. Duty of members of police

A police officer shall execute any lawful order of the Minister or region officer issued under this Act, and any person resisting or obstructing a Regional Administrator, medical practitioner or other person charged with a duty under this Act in the execution of such duty shall be guilty of an offence.